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**SUPREME COURT  
OF THE STATE OF WASHINGTON**

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STATE OF WASHINGTON

Respondent

vs.

STEPHEN CHRISS JOHNSON,

Petitioner,

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PETITIONER'S STATEMENT OF ADDITIONAL GROUNDS FOR  
REVIEW

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Stephen Chriss Johnson  
360-496-1462

Petitioner

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## I. INTRODUCTION

I feel compelled to write this Statement of Additional Grounds, under RAP 10.10, to show more completely the injustice I and other poor people have suffered at the hands of the State, the Department of Licensing, the lower courts, and the public defenders appointed to represent us. I write to bring to the attention of this Court the deplorable conditions of the criminal justice system in the lower courts of the state.

I will raise issues that are difficult and that I think are not being discussed. They are very important to me. I state them in a frank and honest manner. I do not mean to offend, only to bring the Court's attention to what I see as very serious problems in the lower courts.

I am a veteran, honorably discharged. I have never been convicted of a crime before this case. I have never had a major moving violation. I have worked all my life and made enough to live comfortably. In 2000, my driver's license was unconstitutionally suspended. I suffered under that suspension for four years until *Redmond v. Moore*, when my license was returned. Without a license, I was unable to work. After I got my license back, I made ends meet by working odd jobs. But three years later I was suspended again, for not paying a fine on an infraction, eventually leading to my conviction of DWLS 3rd.

I ask this Court to consider what it is like to be poor, elderly, homeless, and to suffer the kind of treatment I have at the hands of the State, the lower courts, prosecutors, and public defenders. From day one I have been treated with the assumption that I was guilty. The courts have not given any consideration to my arguments. My appointed defenders have been completely inadequate. They have not advocated my cause or anyone else's. They have only tried to move me through the process as quickly and cheaply to them as possible, to a finding of guilt. When I asked for counsel that would truly represent me, the court improperly stripped me of my right to appointed counsel. I was forced to liquidate my retirement and give up my home in order to pay private counsel to pursue my appeal.

Every time I have come to court, I got a different explanation of how the DWLS statute works, and none of them make any sense. The district court said you go from here to here to here. The superior court said it is failure to comply. The court of appeals said "as provided in RCW 46.20.289." Not one of these interpretations makes sense when you read the words of the statute. Not one of these interpretations is in favor of the people. They are all in favor of the state. There are just as many arguments in favor of the people.

This has been a very difficult and stressful situation for me that has gone on now for more than five years. It has deeply hurt me, leading to both depression and anger. I feel I need to speak in strong terms because this is such an important issue that affects so many more people than just myself. My rights, which have been trampled on, are the same as everyone else's rights. If nobody speaks up about injustice, none of us have any rights.

## **II. ADDITIONAL GROUNDS FOR REVIEW; ARGUMENT**

### **A. Prosecutors, defenders, and judges give no consideration to poor people or their rights.**

Misdemeanor defendants are seen by judges, prosecutors, and even their own appointed defenders, as irresponsible criminals before any evidence is taken. Judge Buzzard of Lewis County District Court has stated publicly "I don't think it's a financial issue, I think it's a responsibility issue." He did everything he could to kill my appeal.

Judge Brosey was red-faced mad that I and my counsel would dare to step into his courtroom and argue against what he sees as the only leverage the court has to get people to pay their traffic tickets.

He comes to Court, he's convicted, the judge imposes a fine, he blows off the fine, and he keeps on driving, so

that's anarchy. There's no compliance there whatsoever with the court's order, no effort whatsoever to comply with the court's order, and you are telling me the court can do nothing about that.

(argument on RALJ appeal transcript at 8-9.) DWLS is not needed to get people to pay. As judge, he has all the leverage in the world to get people to pay. He can throw them in jail for contempt if he thinks that is what's needed to get them to pay. But if they don't have the means to pay, neither DWLS nor any time in jail will make them suddenly able to pay.

It is clear from the transcript and the written decision that Judge Brosey did not give any consideration to my counsel's arguments. He repeatedly interrupted with antagonistic questions, refused to listen to counsel's explanations, and ended up spending more time talking than he allowed my counsel to talk.

He couldn't see any difference between me and someone who just blows off the fine, so he treats everyone as though they blew off the fine.

How do I know that the situation with Mr. Johnson in not paying the fine is any different from somebody who basically said, I don't care if I can pay this or not, I'm not going to do it, so they choose not to do it? They are in the same position that Mr. Johnson is in, which is one of the problems that I see with your argument is somebody can by their own volition decide, I'm not going to pay a traffic fine, but I'm going to keep on driving, so the state then stops them, arrests them and prosecutes them for driving suspended.

The situation is really no different. The only difference is that by the person who has money has decided by his own volition not to pay it, where you claim Mr. Johnson is indigent and can't pay it. **I don't see a distinction.**

(argument on RALJ appeal at 4.)

Judge Rowe also refused to give any consideration to my arguments, going so far as to tell me that none of the opinions of this Court or the U.S. Supreme Court that I provided to him in my briefs and in oral argument overruled his favorite ancient case of *State v. Rawson* (actually *Rawson v. Dept. of Licenses*, 15 Wn.2d 364, 130 P.2d 876 (1942)), which said that a driver's license is a privilege, not a right, not a property interest, and the State can revoke that privilege whenever it wants.

I have not heard from Mr. Johnson any Supreme Court decisions. I have heard him rely on one Court of Appeals decision [referring to *Redmond v. Moore*, a decision of this Court, not the Court of Appeals], which, quite frankly, I think he misinterprets for his positions. But the law in the State of Washington—in the State of Washington has been and remains the same since 1942. A license is neither a contract nor a right of property. It is no more than a temporary permit to do that which would otherwise be unlawful. Hence, the authority which granted a license always retains the power to revoke it either for due cause of forfeiture upon a change of policy or legislation in regard to that subject. Such revocation cannot be pronounced unconstitutional either as an impairment of contract obligation or as unlawfully divesting persons of their

property rights.

... I have asked, again, for cases today where the U.S. Supreme Court or the state Supreme Court has overruled these ancient decisions and have heard nothing.

... The case law from all the states, the case law from the U.S. Supreme Court, the case law from the State of Washington is absolutely clear. This is a privilege, it is not a right.

(motion for reconsideration transcript at 34-36, 39.) He would not budge from this position, even though I cited to him from both this Court and the U.S. Supreme Court that a driver's license is a valuable property interest protected by Due Process.

It is well settled that driver's licenses may not be suspended or revoked " 'without that procedural due process required by the Fourteenth Amendment.' " *Dixon v. Love*, 431 U.S. 105, 112, 97 S.Ct. 1723, 52 L.Ed.2d 172 (1977) (quoting *Bell v. Burson*, 402 U.S. 535, 539, 91 S.Ct. 1586, 29 L.Ed.2d 90 (1971)); *City of Redmond v. Arroyo-Murillo*, 149 Wash.2d 607, 612, 70 P.3d 947 (2003).

... Depriving a person of the use of his or her vehicle can significantly impact that person's ability to earn a living. *See Bell*, 402 U.S. at 539, 91 S.Ct. 1586. Moreover the State "will not be able to make a driver whole for any personal inconvenience and economic hardship suffered by reason of any delay in redressing an erroneous suspension through postsuspension review procedures." *Mackey v. Montrym*, 443 U.S. 1, 11, 99 S.Ct. 2612, 61 L.Ed.2d 321 (1979). As such, the United States Supreme Court has made clear that a driver's interest in his or her driving privileges 'is a substantial one.' *Id.*; *Dolson*, 138 Wash.2d at 776-77, 982 P.2d 100 (recognizing '[a] driver's license represents an important property interest').

*Redmond v. Moore*, 151 Wn.2d 664, 670-71, 91 P.3d 875 (2004).

Once licenses are issued, as in petitioner's case, their continued possession may become essential in the pursuit of a livelihood. Suspension of issued licenses thus involves state action that adjudicates important interests of the licensees. In such cases, the licenses are not to be taken away without that procedural due process required by the Fourteenth Amendment. This is but an application of the general proposition that relevant constitutional restraints limit state power to terminate an entitlement whether the entitlement is denominated a "right" or a "privilege."

*Bell v. Burson*, 402 U.S. 535, 539, 91 S. Ct. 1586, 29 L. Ed. 2d 90 (1971).

The judges will not listen to a reasoned argument. They expect everyone to do what they say because they say so. They are not following the law or the decisions of this Court that disagree with their own ideas of what is right and maintaining the power of their position. They are incapable of telling the difference between a person who can't pay and a person who simply refuses to pay, they treat everyone as a person who refuses to pay. They treat everyone as criminals and irresponsible.

Prosecutors and public defenders are no different in their attitudes. Lewis County Deputy Prosecutor Eric Eisenberg showed no regard for the "common refrain among offenders" that they cannot afford payment plans because they are unemployed. ("Life Without a License", The Chronicle, Centralia/Chehalis, Washington, Oct. 6, 2011.) He, along with Judge Brosey and Judge Buzzard, see DWLS as "the only leverage they have to

encourage people to pay their traffic tickets.” (See “Life Without a License”) Even two public defenders had “no sympathy for those who lose their driving privileges” for failure to pay fines. (See “Life Without a License”)

I saw the same attitude when I asked Bob Schroeter, a Lewis County criminal defense attorney, about the provision in RCW 10.01.160 that “the court shall not order a defendant to pay costs unless the defendant is or will be able to pay them.” He told me that it created a “super-indigency” standard for costs. I don’t know exactly what that means—I can’t find “super-indigency” in any statutes or case law—but it is clear that he has no regard for the difficulties faced by indigent defendants.

This attitude exists throughout the whole system. Judges, prosecutors, public defenders. They have been frank and honest in their comments cited above. They believe they are doing things the right way. With such attitudes, this court system is incapable of considering whether a person is able to pay a fine or costs or of determining whether a person is indigent. As a result, decisions of this Court and the U.S. Supreme Court are being ignored. This Court must either remove the lower courts’ power to make such determinations or set **and enforce** clear standards for

making the determination. I suggest the standards set out in RCW 10.101.010 should apply to ability to pay a fine or costs as well as to appointment of counsel.<sup>1</sup> If the lower courts and DOL are incapable of following this standard to protect the rights of people who do not have the means to pay, they should have no power to suspend any driver's licenses for failure to pay.

**B. Public defenders are not providing effective assistance of counsel.**

Public defenders have one goal when representing misdemeanor defendants: Get the case done quickly. They are not paid enough to do a competent job of representing their clients. Instead they follow the same routine for each client: Plead them out and get a payment plan. Any other strategy would require too much time in investigation and research. The State doesn't pay them enough. No matter how good a person's defense to the crime might be, the public defender tries to get them to plead guilty and get a payment plan so the defender can move on to the next client.

This is born out by Lewis County statistics. In 2010, non-DUI traffic misdemeanors in Lewis County resulted in 1,578 guilty dispositions

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<sup>1</sup> Except that the courts should not consider a person's home or retirement as "available funds". See pages 37-40, below.

and only one “not guilty”. There were only 31 trials: 3 to a jury and 28 to the court. (Caseloads of the Courts 2010 Annual Report) Out of those dispositions, 1,080 were guilty dispositions for DWLS 3rd. There was not a single “not guilty” disposition for DWLS 3rd in Lewis County in 2010. In the 20 years this law has been in effect, not one judge has said there is something wrong here. In the 20 years this law has been in effect, not one prosecutor has said there is something wrong here. In the 20 years this law has been in effect, not one appointed or public defender has said there is something wrong here. Something is wrong here.

Limiting the caseloads of appointed defense counsel will not suddenly make them better attorneys. It only means they will be doing less work. If they are paid per case, they will make less money. There is no incentive to improve the quality of their work or the amount of time they spend on each case. Appointed counsel are not required to do anything but provide a name and a bar card number, and that is all they do. Nobody is training them to research, understand, and apply the law to their clients’ cases. They follow the status quo: guilty plea, payment plan, argue briefly for a slightly reduced sentence, make sure to get attorney fees, get on to the next case. These are going to be our future judges, and nobody is training them. It is endemic to the whole lower court system. It is the blind

leading the blind.

Mr. Jerry Gray was appointed to defend me in the trial. I discussed with him the arguments I wanted to make. He told me that he would not make my arguments because he did not believe in them. Then, in open court, without telling me in advance, he told the judge that “[his] appropriate role would be to be stand-by counsel.” (motion for reconsideration transcript at 6.) He repeatedly encouraged me to make a stipulated plea of guilty reserving my right to appeal. This is clearly because he did not want to take the time required to do more than plead me out and get a payment plan.

He was not looking out for my interests. When Judge Rowe insisted that *Redmond v. Moore*, 151 Wn.2d 664, 91 P.3d 875 (2004), was a Court of Appeals opinion, Mr. Gray did not help me clear up the judge’s misconception. Instead, he talked me down from correcting the judge. (motion for reconsideration transcript at 20-22.) This was not representing my interests.

The prosecutors and appointed defenders put on a show at the end of trial. The prosecutor stands up and demands the maximum penalty, including jail time and the maximum fine. The public defender then stands and asks for a lesser penalty, but fails to represent the interests of his

indigent client. Mr. Gray, my stand-by counsel at trial, knowing that I could not afford to pay any fines or costs, requested the “usual fine” of \$500, plus attorney fees of \$360 (even though the normal fee is \$240) and a payment plan of \$25 a month. As an indigent defendant I should not have had to pay costs and attorney fees. *See* RCW 10.01.160(3) (“The court shall not order a defendant to pay costs unless the defendant is or will be able to pay them.”). He was not representing my interests in sentencing. He just wanted to make sure everyone got paid for the circus they put on at my expense.

Christine Newbry, my appointed counsel on appeal also did not represent my interests. She delayed obtaining the trial transcript and had not prepared a brief after six months. Deputy prosecutor Shane O’Rourke threatened to dismiss my appeal. I firmly believe that Ms. Newbry did not intend to ever file a brief. The contract under which she was working paid only \$1,300 for all of her work on the appeal, including costs. The trial transcript alone cost more than \$900. The only way for her to get her moneys worth out of the contract was to do as little work as possible. She refused to put forth my arguments. After the contract money ran out, she began cancelling all of my appointments, even after I arrived at her office after traveling 70 miles. If I had not moved to replace her, she would have

done nothing and when the appeal was dismissed would have told me “sorry, we lost” and sent me on my way. The only reason the appeal was even filed is that I filed the notice of appeal myself. The contract of \$1,300 is not enough to provide competent representation to an indigent defendant on appeal. That tiny amount will never get any important issues of injustice in the district courts appealed up to this Court. I have given up my retirement and my home in order to pay competent private counsel to get these issues heard by this Court.

100% of the people who ask for counsel are convicted. 100% of people who ask for counsel and are convicted are required to pay the added cost of counsel. This discourages people from asking for counsel. It has the effect of voiding the right to counsel guaranteed by the Constitution. It must be stopped.

**C. The lower courts do not follow the law or the decisions of this Court.**

**1. Failure to pay is not in the statute.**

My counsel did a good job of showing that RCW 46.20.342 does not include failure to pay. Failure to pay is not found anywhere in the statutes. It is not in RCW 46.20.342. It is not in RCW 46.20.289. It is not in RCW 46.20.291. The lower courts violate the law every day by

convicting drivers based on a suspension for failure to pay. Failure to pay is not a part of the crime of DWLS 3rd.

“Failure to comply with the terms of a notice of traffic infraction or citation” means exactly what it says. The terms of a notice of traffic infraction or citation are printed clearly on the piece of paper given to the driver by a police officer.<sup>2</sup> That piece of paper is where a person of ordinary intelligence would look to figure out how to “comply with the terms of a notice of traffic infraction or citation.”

The notice of traffic infraction does not tell the driver that he or she must pay. It says the driver must respond, by either paying **or** requesting a mitigating hearing **or** a contested hearing. If the driver requests a hearing, the driver must appear in court. That’s all the notice of infraction tells me to do. That is how a person complies with the terms of a notice of traffic infraction or citation. I did that.

The statute is not hard to understand if you read it and follow basic rules of logic and language. But the lower courts are so determined to collect fines that they will do whatever they can to try to make failure to pay fit. Commissioner Tripp in District Court said:

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<sup>2</sup> See RCW 46.23.010 (“terms of a citation” means the options expressly printed on the ticket); and CP at 67-68 (the infraction I received).

And the whole scheme of this driving while suspended, I completely agree with you that it is extremely complicated, and I'm sure that somebody looked at it and saw that you have to go from here to here to here to here to figure this all out. It is not a good situation at all, not for defendants, not for lawyers, not for judges, not for anybody to have it be this confusing.

(trial transcript at 89.) The only reason it is confusing is because the lower court judges are twisting the language to justify their predetermined conclusion. If it really was as confusing as she said, she should have applied the Rule of Lenity and interpreted it in favor of defendants. She refused to do that. Instead she interpreted it in favor of the State:

... the failing to comply, I find still encompasses the failing to pay because payment on a committed infraction is part of the infraction process. It is not a different, new thing, it's either pay it or it gets dismissed. Those are the two things that happen. It didn't get dismissed, so paying it is part of complying with the infraction itself.

(trial transcript at 94.) Her interpretation makes no sense given the words in the statute. The statute doesn't say "failed to comply with the infraction process" or "failed to comply with the infraction itself". It says "failed to comply with the terms of a notice of traffic infraction or citation." She stretches the language to arrive at the conclusion she wants.

Judge Brosey in Superior Court said:

... didn't the legislature really mean when they say failure to comply, if the judge tells you to go to, for example, a defensive driving course, if the judge tells you to go to a

DWI class, if the judge tells you to pay a fine and you blow it off, you are failing to comply with the terms and conditions of what's on the infraction, what's on the notice, what came out of the court case. How can it be anything else?

(argument on RALJ appeal at 7.) He also said:

The "failure to comply with the terms of a traffic infraction as provided in R.C.W. 46.20.289" does not mean failing to respond to the initial notice of traffic infraction as set forth in R.C.W. 46.63.070 rather; it refers in clear and unequivocal language to non-compliance by [not] doing what the adjudicated infraction requires, such as by not paying the monetary penalty.

(CP at 84.) This is not true. The statute refers in clear and unequivocal language to the **terms of a notice of traffic infraction or citation**, not to the adjudicated infraction. The statute does not say "failed to comply with the terms and conditions of an infraction." It does not say "failed to comply with what came out of the court case." It does not say "failed to comply with what the adjudicated infraction requires." It says "failed to comply with the terms of a notice of traffic infraction or citation." The words are plain, but the lower courts are blinded by their quest to collect fines and to punish anyone who does not pay.

Like Commissioner Tripp, Judge Brosey twists the language to reach his predetermined conclusion. He clearly revealed his attitude at oral

argument, and I encourage the Court to read that transcript. Judge Brosey did nothing but attack my counsel and did not listen to a word he said.

The Commissioner of the Court of Appeals also twisted the words of the statute:

Thus, by failing to pay the monetary penalty imposed after the contested hearing Johnson requested, the Department had the authority to suspend his driver's license under RCW 46.63.110(6)(b) and RCW 46.20.289. And because it suspended his license "as provided in RCW 46.20.289," the district court did not err in finding that he was guilty of third degree driving while license suspended under RCW 46.20.342(1)(c)(iv).

(Ruling Denying Review at 4.) He misreads all of the statutes.

RCW 46.20.342 does not say a person who was suspended as provided in RCW 46.20.289. It says a person who was suspended "solely because ... the person has failed to [do one of four things], as provided in RCW 46.20.289." The phrase "as provided in RCW 46.20.289" clearly refers to the things the person failed to do, not to the manner of the suspension. It only tells us where those four things originated.

**2. DOL has no authority to suspend for failure to pay.**

DOL says that it suspended my license under authority of RCW 46.20.289. (*See* CP at 78, bottom right corner.) But that statute does not authorize DOL to suspend for failure to pay. In fact, the statute does

not **authorize** anything. The source of DOL's authority to suspend is RCW 46.20.291. Section 46.20.289 only **instructs** DOL to suspend licenses ("The department shall suspend") under specific conditions, namely "that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation ..." Failure to pay is not one of those conditions. DOL cannot suspend for failure to pay under RCW 46.20.289.

A citizen of ordinary intelligence would look to RCW 46.20.291, "Authority to suspend—Grounds" to find out what authority DOL has to suspend licenses. That statute says:

**RCW 46.20.291 Authority to Suspend—Grounds.**

The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

- (1) Has committed an offense for which mandatory revocation or suspension of license is provided by law;
- (2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;
- (3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;
- (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);

(5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289;

(6) Is subject to suspension under RCW 46.20.305 or 9A.56.078;

(7) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.0921; or

(8) Has been certified by the department of social and health services as a person who is not in compliance with a child support order or a residential or visitation order as provided in RCW 74.20A.320.

Failure to pay is not on the list. For the same reasons stated above and in my counsel's brief, failure to pay is not included in subsection (5), which is the exact same language as the DWLS statute. DOL does not have authority to suspend for failure to pay. That makes my suspension invalid, and conviction of DWLS cannot be based on an invalid suspension.

The notice of traffic infraction does not provide notice that a license can be suspended for failure to pay or that criminal penalties could follow. *See* CP at 67-68. It says if the driver fails to **respond or appear** he will lose his driver's license. The only thing it says about failing to pay is "Also, if you do not pay, your case may be sent to a collection agency." It doesn't say the driver will be suspended. Neither the statute nor the notice of infraction authorizes DOL to suspend for failure to pay.

Recent changes to RCW 46.63.110(6)(a) and (b) show that the legislature doesn't want DOL to suspend for failure to pay. In Laws of 2012, Chapter 82 (Senate Bill 6284), the legislature removed the language "the department shall suspend the person's driver's license or driving privilege" and replaced it with "the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement." The new language leaves the determination of when to suspend to RCW 46.20.289, which has never authorized suspension for failure to pay a fine.

**3. The trial court improperly shifted the burden to me.**

After the State rested, I made a motion to dismiss because the State had failed to prove its case. The State had presented evidence that I was "suspended in the third degree" (CP at 77) and that I was suspended because I "failed to respond, appear, pay, or comply with the terms" of a citation (CP at 78). This evidence was insufficient to prove that the reason for my suspension was one of the reasons in the statute, *see* RCW 46.20.342(1)(c), but the court denied my motion and put the burden on me to prove that the suspension was for failure to pay and that failure to pay is not failure to comply with the terms of a notice of traffic infraction or citation. (trial transcript at 32–51.)

When evidence does not match the elements of a crime, it is insufficient. The State's first piece of evidence, that I was "suspended in the third degree," proves nothing, as this Court observed in *State v. Smith*, 155 Wn.2d 496, 503-04, 120 P.3d 559 (2005). There is no such thing as "suspended in the third degree." No statute describes or authorizes degrees of suspension. Even if DOL uses it internally as shorthand, it means nothing in a trial for DWLS. It does not prove a reason for suspension as required by the elements of the crime.

The State's second piece of evidence, that I was suspended because I "failed to respond, appear, pay, or comply with the terms" of a citation does not match the elements of the crime. Failure to pay is not part of the crime. The DOL letter lists four possible reasons for my suspension, but the State didn't offer any proof of which of the four reasons it was. If my suspension was for failure to pay (which it was), I am not guilty of the crime. This evidence is akin to laying the entire RCW on the table and saying "He broke some law in here so find him guilty." The state failed to prove beyond a reasonable doubt that the reason for my suspension was for failure to respond, failure to appear, or failure to comply with the terms of a notice of traffic infraction or citation, the actual elements of the crime.

The State had the burden to prove beyond reasonable doubt that I

was suspended because I failed to respond, appear, or comply with the terms of a notice of traffic infraction or citation. The State did not provide any evidence that I failed to respond or appear. The court should have required the State to prove what the terms of the notice of traffic infraction were and that I had failed to comply with them. The State did not provide any evidence of the terms. The State could not prove that I failed to comply with some **unknown and unidentified terms**. The court should have granted my motion to dismiss. Instead it shifted the burden to me to prove the terms of the notice and that failure to pay was not there. I did so, but the court convicted me anyway. It held that I was guilty because 1) I was driving and 2) my license was suspended. It ignored the element of the reason for suspension.

**D. DWLS 3rd is a made-up crime that does not protect public safety.**

Suspension and DWLS exist only to collect money for the county and the state. It is big business for the counties as well as the state. At least one third of infraction fines, and all costs, collected by the district court is kept by the county to help pay the costs of the court and law enforcement. The judges are collecting the money that funds their own paychecks! No wonder they go to such great lengths to protect their false interpretation of

DWLS 3rd.

Judge Rowe confirmed that it is all about the money: “[The State] does have a compelling issue to collect the fines that are—and monies owed to the state. **That’s what the state government has been designed for.** The money belongs to the people of the State of Washington. **There is no more compelling issue than that.**” (recon at 38.) Judge Rowe believes that, contrary to the Washington Constitution, the state government exists for the primary purpose of collecting money from its citizens, rather than to “protect and maintain individual rights.” According to Judge Rowe, the collection of money is a more compelling interest than protecting the lives, property, and individual rights of Washington’s citizens. Perhaps it is compelling to his own pocketbook, but it is not compelling to the citizens of Washington and has not been compelling to this Court:

The State’s interest in suspending an individual’s driver’s license for failing to appear, pay, or comply with a notice of traffic infraction ... does not rise to the level of the State’s compelling interest in keeping unsafe drivers off the roadways. Simply put, failing to resolve a notice of traffic infraction does not pose the same threat to public safety as habitually unsafe drivers do.

*Redmond v. Moore*, 151 Wn.2d 664, 677, 91 P.3d 875 (2004). The U.S. Supreme Court has also held that protection of the public purse is not a

compelling state interest. *Memorial Hospital v. Maricopa County*, 415 U.S. 250, 263, 94 S.Ct. 1076, 39 L.Ed.2d 306 (1974).

Under the Washington Constitution, the Police Power means “the State Legislature may prescribe laws to promote the **health, peace, safety, and general welfare of the people of Washington.**” *State v. Brayman*, 110 Wash.2d 183, 192-93, 751 P.2d 294 (1988). There must be a reason or there can be no law. Where does DWLS 3rd fit under the Police Power? Health? It has nothing to do with health. Peace? It does not prevent or punish any breach of the peace. Safety? This Court said in *Redmond v. Moore* that DWLS 3rd has nothing to do with public safety. General welfare? Only if the state intends to feed, house, provide medical and other basic necessities of life to the 300,000 suspended drivers and their families who are no longer able to earn their own income. This law/policy does not fit within the Police Power of the state and is therefore unconstitutional.

The only reason for this crime is so the police can boost their statistics and say they are solving crimes. They seem unable to solve burglary and theft unless the victim is rich or connected with the government. But they are good at harassing drivers with old cars who are likely to be poor, have no insurance, and maybe even have a suspended

license.

A driver who fails to respond, appear, or pay a traffic fine is no more dangerous on the road than a driver who gets the same ticket and pays it to avoid suspension. Only 0.09% of drivers suspended for non-driving reasons (such as failure to pay) are later involved in collisions, compared to 3.4% of drivers suspended for bad driving.<sup>3</sup> There is no public safety benefit. It does not protect or maintain anyone's individual rights. It is all about collecting money for the government, which it can't do because the accused drivers are all too poor to pay.

This made-up crime is nothing more than debtor's prison. Infractions are civil, not criminal. Fines for infractions are civil debts. When a person fails to pay a civil debt to the State, the State can try to collect the same as any other creditor. The State argues that it needs enhanced penalties like suspension and DWLS to collect the fines, but it won't allow me to use the same tools to collect my civil judgment against my neighbor. I can't get my neighbor to pay the judgment, why can't I have the same tool to collect a civil debt? We long ago abolished debtor's

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<sup>3</sup> U.S. Department of Transportation, National Highway Traffic Safety Administration, *Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers With Suspended/Revoked Licenses*, January 2009.

prison in this country, but the State attempts to revive it. This made-up crime is all about revenue enhancement, not “the least severe punishment to elicit a change in behavior.”

Rather than actually collecting fines, the courts are turning poor people into criminals. Most people convicted of DWLS 3rd are repeat offenders because they cannot pay their fines and get their licenses back. They are simply too poor. The scheme of suspension and DWLS is designed to attempt to squeeze money out of those people who are least able to pay and least able to defend themselves in court.

As happened in *Tate*, the judges and the State have lost sight of the purpose of fines being to punish crimes and infractions, and see them instead only as a source of revenue for their courts. But most courts probably don't even look at the actual numbers to know that they do not make money from DWLS. The average fine for a DWLS 3rd conviction in Lewis County is about \$750, but only about \$200 is actually collected from each non-DUI traffic misdemeanor conviction. The City of Seattle has looked at the numbers, and they have stopped prosecuting first and second offenses of DWLS 3rd. The City was spending about \$1,500 per case on prosecutors, public defenders, courtrooms and staff, yet only collected about \$300 per case in fines. By reducing prosecutions, Seattle

has drastically reduced costs, saving over \$237,000 in 2011. DWLS does not increase revenue from infractions, it increases **costs**.

**E. Driving on the public roads is a right that the State cannot arbitrarily take away.**

Article 1, Section 1 of the Washington Constitution states “[a]ll **political power is inherent in the people**, and governments derive their just powers from the consent of the governed, and are established to **protect and maintain individual rights.**” There is a line between what is mine and what is the government’s. The government cannot simply take what is mine because it says so. I have rights that it must protect. I deserve to know, as a citizen, what is mine and what is the government’s. *Hadfield v. Lundin* says that my right to drive on the public roads in the customary manner is subject only to “reasonable regulation”. What makes a regulation “reasonable”? The people need this Court to explain and show us where the line is. We should not be left to guess at our rights.

Nearly one hundred years ago, this Court declared that the people have a right to use public roads in the ordinary and customary manner. “The streets and highways belong to the public. They are built and maintained at public expense for the use of the general public in the ordinary and customary manner.” *Hadfield v. Lundin*, 98 Wash. 657, 660,

168 Pac. 516 (1917). Large sums of public money are expended to build and maintain the roads in prime condition for automobile travel. *Id.* The ordinary and customary manner of using the public roads is to drive an automobile.

The right of a citizen to travel upon the highway and transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain, in the running of a stage coach or omnibus. The former is the usual and ordinary right of a citizen, a common right, a right common to all, while the latter is special, unusual, and extraordinary. As to the former, the extent of legislative power is that of regulation; but as to the latter, its power is broader. The right may be wholly denied, or it may be permitted to some and denied to others, because of its extraordinary nature. This distinction, elementary and fundamental in character, is recognized by all the authorities.

*Id.* at 663.

In rural Lewis County, 99% of constitutionally protected travel is by automobile. The only people walking are those with suspended licenses, of which most are only for non-payment of fines. Rural Lewis County spends no road money on provisions for walking. 100% of money is spent for auto travel. It is the same across most of the state.

When one enters the interstate highway system, a sign exhibits three words: "Motor Vehicles Only." To a person who has been

wrongfully deprived of the right to drive, that sign is just like an earlier sign that has been ruled unconstitutional, that being: “Whites Only.”

The “ordinary and customary manner” of using the public roads is to drive an automobile. If we have a right to use the public roads, that means we have a right to drive. How can a person safely exercise the right to use public roads designed exclusively for automobiles, without driving an automobile? A driver’s license is not a “privilege” that the State can take away at will. It is a right that can only be taken “to protect and maintain individual rights”, in other words, to protect public safety. There is no other legitimate purpose for regulating the right to drive.

We do not license drivers to assure they are current in child support payments; we license them **to promote highway safety**. By the same token, revocation of a driver's license for a reason completely unrelated to the only legitimate police power justification for the license in the first place violates due process.

*Amunrud v. Bd. of Appeals*, 158 Wn.2d 208, 231 (2006) (Sanders, J., dissenting). The State cannot deprive its citizens of the right to drive unless the suspension or revocation is related to public safety.

I question the logic of state revocation of a license ... for failure to pay a debt — although I suppose there is a certain incentive to do so if the federal government will give a monetary grant to the State in return. But it is up to us to protect the constitutional rights of our citizens; we should

not be concerned that the legislature will lose its federal  
bribe money — certainly I'm not.

*Id.* at 232 (Sanders, J., dissenting). This Court should not be concerned  
that counties might lose money from fines. It is up to this Court to protect  
the rights of the citizens, including the right to drive.

The majority argues license revocation is a highly effective  
enforcement tool. Extortion normally is. However, historic  
methods of collecting child support remain as a less  
intrusive and more effective way to accomplish the goal of  
the statute than taking away the debtor's source of income.  
These means include but are not limited to garnishment,  
civil liability, execution, property liens, contempt of court,  
and federal prosecution under the Child Support Recovery  
Act of 1992 and Deadbeat Parents Punishment Act of 1998,  
18 U.S.C. § 228. These means reach the objective directly  
without the oppressive revocation of an unrelated license.

*Id.* at 246 (Sanders, J., dissenting). Extortion is not necessary to collect  
fines. Coercive suspension is oppressive. Traditional methods of collecting  
debts are less intrusive and more effective ways to get the fines paid. The  
right to drive cannot be taken away for the unrelated purpose of coercing  
payment of fines.

This Court approved suspension for failure to pay child support in  
*Amunrud*, but limited its holding by stating “it is reasonable for the  
legislature to believe that this state's license suspension scheme will  
provide a powerful incentive **to those financially able** and in arrears in

their child support payments to come into compliance with a lawful court order of child support.” This means that the suspension is valid for people who are able to pay, but people who are unable to pay must be exempt from suspension. *See State v. Blank*, 131 Wn.2d 230, 241-42, 930 P.2d 1213 (1997). But this important concern with ability to pay has been ignored by the lower courts, DSHS, and DOL. This key phrase is not noted in any digest or annotated code. This important but ignored principle applies also to suspension for failure to pay a fine.

I am not saying that the State can never suspend or revoke a license. Every right we have has an element of privilege in it—there is something that can be regulated or encroached by the government. We have a right to be secure in our persons and property, but the government can search our homes with a valid warrant. I cannot use my rights in a way that infringes on other people’s rights. The State can prohibit me from using my rights in a way that injures others. Driving is the same. We have a right to drive, but it can be regulated by way of rules of the road designed to protect the safety of others. The State must have a public safety justification for restricting a person’s right to drive.

If the State and Judge Rowe’s interpretation is correct, and the right to drive is only a privilege that the State can revoke at will, then

Queen Christine, upon her coronation, could have suspended the driver's licenses of all members of the Republican Party. The GOP faithful would have come running to this Court to protect their rights. Prince Rob, should he ascend to the throne, could reinstate the Republicans and suspend all the Democrats. This raises important questions. What would this Court say to these parties? Is driving just a privilege? Or is it something more? What are the limits on the State's power to deprive a person of the right to drive?

**F. The requirement of a residence address is unconstitutional.**

The requirement of a traditional residence address to qualify for a license is arbitrary and an unconstitutional restriction of my right to drive. It has nothing to do with public safety. My underlying infraction in this case was for driving without a valid license, because the Department of Licensing had refused to renew my license with the address denoted on my previous license. My previous license had a descriptive address and a mailing address: "1/2 M W PO HWY 12/POB 13, Randle, WA" (*i.e.*, ½ mile west of post office on highway 12 in Randle, or P.O. Box 13). This is sufficient to prove my residency in the State and for any legitimate government purpose in locating me to provide notice.

The requirement in RCW 46.20.091 that I provide a **residence**

address, as interpreted by DOL to mean a **traditional street address**, is unreasonable. To require me to obtain and report a street address violates my right to privacy. I have a right to not have a permanent or traditional residence if I choose. My exercise of that right cannot limit any of my other rights as a U.S. citizen and resident of the State of Washington. Although it may be a convenience to state and federal law enforcement to have traditional street addresses of the home location of all Washington citizens, it unreasonably burdens our substantial interests in being licensed drivers and our rights to privacy.

The requirement creates two classes of persons: persons with a traditional street address and persons without. People who do not own or rent a residence are unable to receive a driver's license or state ID card and are being treated differently under this law than people who do own or rent a residence. In addition, without valid ID I cannot cash a check. I cannot open a bank account. I cannot travel by air. The State of Washington lacks a compelling interest to treat these classes of individuals differently under this law, especially where fundamental rights are at stake. "The principal of equal protection requires that all persons similarly situated with respect to the legitimate purpose of the law must receive like treatment." *Spence v.*

*Caminski*, 103 Wn. App. 325, 335, 12 P.3d 1030 (2000).

For this requirement to stand, it must be related to some compelling interest of the State. Judge Rowe told me that the State's compelling interest in requiring a residence address was so the State would know where to arrest me. (motion for reconsideration transcript at 38-39.) It is chilling to think that the State is collecting the residence addresses of every Washington resident with a driver's license or ID card for the sole purpose of being able to arrest them. That is the kind of thing we talk about happening in the old Soviet Union, not in a "free country" like ours. In this country I have the right to be left alone. *Griswold v. Connecticut*, 381 U.S. 479, 483-85, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). I have the right to be free from government interference. Such an illegitimate purpose cannot be a compelling interest.

There are several groups of people who do not have a Washington residence address. These groups include people who live in motor homes without a residence address, and homeless people. Under this law, such individuals cannot legally obtain a Washington driver's license, even if they are competent drivers and bona fide residents of the state. There is no reason to deny these people a driver's license simply because they cannot provide a traditional street address at which they may be arrested.

When it comes to a different fundamental right, the right to vote, RCW 29A.08.010 and .112 properly allow for voter registration and identification recognizing a combination of a nontraditional residential address and a mailing address (as was previously allowed by the Department of Licensing on my prior driver's license). The failure of the driver's license and ID laws to make similar provisions for bona fide state residents with nontraditional addresses or no address at all violates the constitutional guarantee of equal protection under the law and unreasonably deprives residents of their right to travel on the public roadways. A person should be able to put "homeless" on their ID or driver's license. A homeless person is still a citizen of the U.S. and a resident of the state and should have all of the same rights and privileges as anyone else.

**G. Judge Buzzard stripped me of my counsel without due process.**

Judge Buzzard denied all of my procedural requests out of hand. He came in with returned letters from the court file and ordered me to get a mailing address. He took it upon himself to pull a copy of the order of indigency so he could change his earlier finding. He questioned me on my financial status, knowing that I was unprepared and unrepresented, for the specific purpose of taking away my counsel. He accused me of perjury for

not answering questions on the Determination of Indigency Report, when I was not required to answer those questions. At the end of the hearing, he denied my motion to replace counsel and told me if I wanted my issues heard I could do it myself. Shortly after the hearing he took away my counsel contrary to the law on indigency in this state. I encourage the Justices to read the transcript from that hearing to see his anger and mistreatment of me in violation of my constitutional and statutory rights.

Since the issue of replacing counsel was between me and my counsel, and there was the possibility of information being raised that could prejudice my case, I requested that the prosecutor be excluded from the hearing. RCW 10.101.020(3) says that “Any information given by the accused under this section or sections shall be confidential and shall not be available for use by the prosecution in the pending case.” Judge Buzzard knew that he would be asking me for in-depth information about my finances, which should have been kept confidential from the prosecutor, but he still refused to exclude the state from the hearing.

I wanted to give the court a draft of my appeal brief so he could see that the arguments Ms. Newbry was refusing to make were not frivolous. He refused to seal the brief from the state, saying as soon as I handed it to him it would be public record.

I pointed out to the court that I was not represented by counsel in the hearing. I wanted my counsel to withdraw and be replaced. She was taking a position adverse to me and could not be representing my interests. He repeatedly said that she was representing me, even though he knew or should have known that she could not represent me in that situation. She was asking to be removed from the case. When Judge Buzzard began questioning me without any advance notice and in violation of the statute, she did not object or offer me any advice or assistance. Judge Buzzard knew that I was unrepresented and that I did not waive my right to representation, yet he decided to re-examine my indigency, which he can't do under the statute, questioning me under oath without any advance notice in violation of my due process rights.

RCW 10.101.020(3) says "The determination of indigency shall be made upon the defendant's initial contact with the court." That determination had been made months before when Ms. Newbry was appointed. Nothing in the statute allows the court to re-examine my indigency and strip me of counsel in the middle of the case.

Judge Buzzard himself had signed the original Determination of Indigency Report, finding me indigent, without question. It is only after I dared to ask for new counsel that he looked at the form again and decided

to find a way to change his original determination. He criticized me for leaving sections of the form blank. I simply followed the instructions of the woman at the clerk's counter. She asked me the questions and I answered. Since I had no income, she said I didn't have to answer any of the other questions, and just to sign the form, which I did. Under the law, my zero income makes me indigent. No other considerations apply.

(3) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

**(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level; or**

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

RCW 10.101.010. Detailed financial information only enters the picture if none of (a), (b), or (c) applies. I was not required to give that information on the form because it did not apply to my situation. I had no income. I

was indigent. Judge Buzzard himself agreed and signed the form without question at the beginning of my appeal.

Judge Buzzard accused me of perjury for leaving that information blank. It was never asked. When I signed the form I was saying that the questions I was asked and answered were true. I was not saying that the rest of the questions were zero. Judge Buzzard had the form in front of him, which had instructions to skip the sections I had left blank. But he ignored those instructions and used it as an opportunity to find fault with me and find reason to deny me counsel. I did nothing wrong. I truthfully answered the questions that I was asked and required to answer on the form. Even though Judge Buzzard should not have been asking me any questions about my finances, I answered his questions truthfully. Even considering those answers, I was still indigent under the statute. I had no income and I was on food stamps. Either of those alone made me indigent under the statute. Judge Buzzard ignored the statute and denied me appointed counsel without law.

**H. My residence and an uncollectible judgment are not “liquid assets” or “available funds”.**

I have no income. I have no retirement. I am 64 years old. Before I was suspended, I could earn \$5,000 per year doing odd jobs. Now I cannot

earn any income because I cannot drive. I fell 3 years delinquent on my property taxes and was about to lose my home at a tax sale. The house is dilapidated and has no utility service. I have been trying to sell it for years but the only bona fide offer I ever received for the land was \$200,000, which was less than the value I could get from selling just the timber.

To pay my taxes and the lawyers I had to hire for my appeal, I sold all the timber off my land, taking all the value out of the property. That was going to be my retirement. Now I will be indigent and dependent on the state for the rest of my life. The state should not be able to force me to liquidate my retirement and lose my house in order to get competent legal representation.

Equity in a home is not a liquid asset. Liquid assets are those that can be quickly and easily converted to cash with little or no loss of value. Examples of liquid assets include cash itself, bank accounts, money market funds, or treasury bills. Real estate is the classic example of a non-liquid asset, requiring a great deal of time and cost to find a buyer then negotiate and complete the sale. In order to sell a house quickly, the seller will have to settle for less than the property's true value. It is the least liquid of any asset one can hold.

I could not sell my home. I could not get a loan on my equity. The

state refuses to give me an ID card or a driver's license. Without valid ID I cannot open a bank account. I cannot borrow money on the equity in my home. Even if I had valid ID, without any income to repay a loan, no bank would ever qualify me for a home equity loan. The state cannot expect a defendant to sell their home to pay for a lawyer in their defense. Equity in a home cannot be considered a liquid asset in determining whether a person is indigent.

SSI (Social Security) does not consider a home when determining benefits. Food Stamps does not consider a home when determining benefits. VA does not consider a home when determining indigent veteran's benefits. If these programs required a person to give up their home to get benefits, they would also have to provide a home for the person to live in. A person's homestead is exempt from execution. Retirement accounts are also exempt, RCW 6.15.020, and are not considered "available funds" under RCW 10.101.010.

If all of these programs exempt a person's residence from available assets when determining benefits, how can the courts of this state consider a person's residence to be "available funds" for purposes of appointing counsel to indigent defendants? The right to an attorney is stronger than any right to welfare. Making me lose my home and retirement is an

additional punishment on top of the sentence for DWLS.

An uncollectible judgment is also not a liquid asset. My neighbor is entirely judgment-proof. The only assets he has are exempt. If he does have non-exempt assets, he must be hiding them. It would cost me more to discover and seize any hidden assets than I would get from the sheriff's sale. The judgment is worthless. It is not "available funds" because there is no way for me to get any cash value out of it.

Consideration of a home, retirement assets, or an uncollectable judgment for purposes of indigency under RCW 10.101.010 is unconstitutional.

**I. The value of my interest in my driver's license should be credited against the fine and the suspension should end once the value of the punishment is satisfied.**

The *Tate* and *Williams* decisions would never have happened if they had only gotten 5-10 days in jail for failing to pay their fines. The defendants in those cases would have felt they had paid their debt to society and be able to walk away without fines hanging over their heads. They would not have appealed if they thought the punishment was fair. Even if they appealed, the Court would have upheld the punishment if the Court felt it was fair. As long as the amount of jail time had been fair compared to the amount of the fine, the use of alternative punishments

would not have been unconstitutional. I am only asking that the length of a suspension for failure to pay be fairly related to the amount of the fine and end once the driver has “paid their debt” through time suspended. Or that fines be done away and replaced with short suspensions for a set term, which would treat everyone fairly and equally.

A driver’s interest in continued possession and use of his or her license is a valuable property interest. *Redmond v. Moore*. The State will not be able to make a driver whole for any personal inconvenience and economic hardship suffered as a result of wrongful suspension. *Mackey v. Montrym*, 443 U.S.1, 11, 99 S.Ct. 2612, 61 L.Ed.2d 321 (1979). The duration of any deprivation of a property interest is an important factor in assessing the impact of official action on the private interest involved. *Id.* at 12, cited in *Redmond v. Moore*.

Suspension for failure to pay a fine is not a part of the punishment for the underlying infraction. It is an additional penalty to try to get the driver to pay the fine. It is a deprivation of a valuable property interest, and the driver should be compensated, by earning credit against the fine. It is unreasonable for the State to impose an additional penalty that takes from the driver more than the initial fine. I have been suspended now for over five years. Even if my interest in my driver’s license is measured only by

my potential income (really it should be more than just that), the value of my interest has reached over \$25,000. The State's interest is collecting a \$250 fine. The State provides no compelling interest that would allow its interest in a small fine to outweigh my substantial interest in my right to drive and all the benefits and enjoyments that flow from that right.

According to *Moore*, the State only has a compelling interest to suspend a driver's license to protect public safety on the roadways, by testing to ensure minimum competence or by removing unsafe drivers. Collection of fines is in the interest of "the efficient administration of traffic regulations" and is not a compelling interest. It is not a legitimate reason for restricting the right to drive. I have been punished much more heavily than the \$250 fine that the court determined was the proper penalty for my infraction. Balancing my interest against the State's interest, my suspension should have ended long ago.

**J. Even fines themselves are unconstitutional.**

Fines as a punishment violate Equal Protection. They inflict different punishment on different people, depending on the financial resources of the person. Justice Blackmun pointed this out in his concurring opinion in *Tate v. Short*, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130 (1971):

The Court's opinion is couched in terms of being constitutionally protective of the indigent defendant. I merely add the observation that the reversal of this Texas judgment may well encourage state and municipal legislatures to do away with the fine and to have the jail term as the only punishment for a broad range of traffic offenses. Eliminating the fine whenever it is prescribed as alternative punishment avoids the equal protection issue that indigency occasions, and leaves only possible Eighth Amendment considerations. If, as a nation, we ever reach that happy point where we are willing to set our personal convenience to one side and we are really serious about resolving the problems of traffic irresponsibility and the frightful carnage it spews upon our highways, a development of that kind may not be at all undesirable.

*Tate*, 401 U.S. at 401.

Some argue that fines are fair because they are monetary in nature and are the same amount for everyone. Fines may be monetary in nature, but they are economic in fact. The impact of a fine is felt by a person relative to the person's economic situation. A fine that is equal in monetary amount will never be equal in economic impact. As my counsel describes in the opening brief:

A person with some discretionary income will feel the bite of the fine but is able to pay it. A person with more income will feel a lesser sting, because he or she gives up proportionally less in order to pay the fine. At sufficiently high incomes, the fine becomes insignificant. In contrast, for a person who is just scraping by, the sacrifice required to pay the fine is immense. For an indigent person, who does not even have the means to meet all of his or her basic needs, the burden is insurmountable.

A person like myself will never be able to pay the fine, and the consequences of failing to pay will follow me forever. In contrast, a person earning \$164,000 per year can easily pay a traffic fine and never face any additional consequences. A person somewhere in the middle, who has enough to generally get by, may have to make immense sacrifices in order to pay the fine and avoid the consequences of failing to pay. This is inherently unjust. This is not Equal Protection.

If the only penalties were jail time or suspension for a set duration, everyone would be equally affected by the penalty. Everyone would lose the same amount of their valuable time and liberty. Nobody would suffer more, solely because they have less money. That is the kind of fairness and Equal Protection the Constitution requires.

### **III. PRAYER FOR RELIEF**

I respectfully request this Court do the following:

1. Reverse my conviction of DWLS 3rd.
2. Hold that DWLS 3rd does not include a person who drives while their license is suspended for failure to pay a traffic fine; in other words, it is not a crime for a person to drive while his or her license is suspended solely for failure to pay a traffic fine.

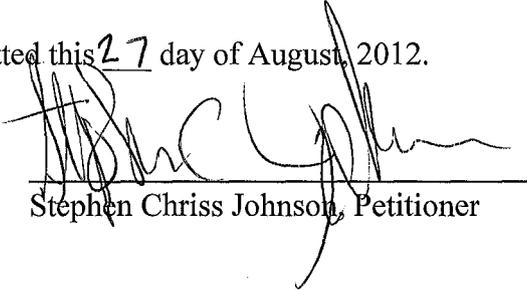
3. Reverse or vacate statewide all prior convictions of DWLS 3rd that were based on failure to pay a traffic fine.
4. Reinstate my license and driving privilege.
5. Hold that DOL does not have authority under RCW 46.20.291 to suspend a driver's license or privilege for failure to pay a traffic fine.
6. Hold that RCW 46.20.289 does not grant DOL authority to suspend a driver's license or privilege for failure to pay a traffic fine.
7. Hold that RCW 46.63.110(6) does not grant DOL authority to suspend a driver's license or privilege for failure to pay a traffic fine.
8. Hold that suspension of an indigent driver's license for the driver's inability to pay a traffic fine is unconstitutional and invalid.
9. Order the courts to never order suspension of a driver's license, for failure to pay, of a person who meets the definition of an indigent criminal defendant in RCW 10.101.010.
10. Reaffirm this Court's prior opinion in *Hadfield v. Lundin* that the people have a right to use the public roads in the ordinary, customary manner (*i.e.*, driving a motor vehicle).

11. Explain the limits on the State's power to regulate the right to drive.
12. Hold that a person's right to drive, including the driver's license or privilege, can only be suspended for reasons related to protecting public safety.
13. Order DOL to cancel all suspensions for failure to pay traffic fines.
14. Order DOL to issue new drivers licenses at no cost to all drivers whose licenses were suspended for failure to pay traffic fines.
15. Hold that the use of fines as a punishment for crimes or infractions is unconstitutional, violating equal protection.
16. Order the courts to vacate all outstanding fines for crimes or infractions.
17. Order all district and superior court judges to read this Court's opinion in this case and follow it.
18. Discipline Judge Rowe for his refusal to follow the opinions of this Court.
19. Discipline Judge Buzzard for depriving me of my right to appointed counsel, in violation of statutes and my constitutional right to due process.
20. Order Lewis County or the State to reimburse me for my attorney

fees at all levels of appeal, which should have been provided at public expense due to my indigency.

21. Hold that retirement assets, a home, and equity in a home are not liquid assets that can be considered to deny a person's right to appointed counsel.
22. Issue any other orders or opinions which justice may require.

Respectfully Submitted this 27 day of August, 2012.

  
\_\_\_\_\_  
Stephen Chriss Johnson, Petitioner

# APPENDIX

**THE UNDERSIGNED CERTIFIES AND SAYS THAT IN THE STATE OF WASHINGTON**

DRIVER'S LICENSE NO. **JOHNSC526P3** STATE **WA** EXPIRES **2001** PHOTO I.D. ON PERSON  YES  NO

NAME: LAST **JOHNSON** FIRST **STEPHEN** MIDDLE **CHRIST**

ADDRESS **70 BOX 13 / US HWY. 12**  IF NEW ADDRESS  PASSENGER

CITY **RANDLE** STATE **WA** ZIP CODE **98377** EMPLOYER LOCATION

DATE OF BIRTH **10-23-48** RACE **W** SEX **M** HEIGHT **5-07** WEIGHT **197** EYES **GRN** HAIR **BRN**

RESIDENTIAL PHONE NO. CELL / PAGER NO. WORK PHONE NO.

VIOLATION DATE MONTH **04** DAY **14** YEAR **07** TIME **1645**  INTERPRETER NEEDED

ON OR ABOUT AT LOCATION **US HWY. 12 111** M.P. CITY COUNTY ST. **LEWIS** LANG.

**DID OPERATE THE FOLLOWING VEHICLE/MOTOR VEHICLE ON A PUBLIC HIGHWAY AND**

VEHICLE LICENSE NO. **A91679L** STATE **WA** EXPIRES **03-08-1985** VEH. YR. MAKE MODEL STYLE COLOR **PV WHITE**

TRAILER # LICENSE NO. STATE EXPIRES TR. YR. TRAILER #2 LICENSE NO. STATE EXPIRES TR. YR.

OWNER/COMPANY IF OTHER THAN DRIVER **SAME AS ABOVE**

ADDRESS CITY STATE ZIP CODE

ACCIDENT  NO NR R I F COMMERCIAL  YES  NO HAZARD  YES  NO EXEMPT  FARM  R.V.  OTHER

**DID THEN AND THERE COMMIT EACH OF THE FOLLOWING OFFENSES**

1. VIOLATION/STATUTE CODE **RCW 46.20.015** VEHICLE SPEED IN A ZONE  SMO  PACE  AIRCRAFT

**NO VALID DRIVER'S LICENSE WITH VALID ID**

2. VIOLATION/STATUTE CODE

3. VIOLATION/STATUTE CODE **3B-**

PENALTY **U.S. \$ 539.00**

RELATED # DATE ISSUED **04-14-07**

WITHOUT ADMITTING TO HAVING COMMITTED EACH OF THE ABOVE OFFENSE(S), BY SIGNING THIS DOCUMENT I ACKNOWLEDGE RECEIPT OF THIS NOTICE OF INFRACTION AND PROMISE TO RESPOND AS DIRECTED ON THIS NOTICE.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT I HAVE ISSUED THIS ON THE DATE AND AT THE LOCATION ABOVE, THAT I HAVE PROBABLE CAUSE TO BELIEVE THE ABOVE NAMED PERSON COMMITTED THE ABOVE OFFENSE(S), AND MY REPORT WRITTEN ON THE BACK OF THIS DOCUMENT OR ATTACHED TO THIS INFRACTION IS TRUE AND CORRECT.

DEFENDANT'S SIGNATURE **C. SPAIN** OFFICER **236**

PLFF. IDENT. EX  
 LEWIS COUNTY  
 DISTRICT COURT  
 CASE No. **CS 203**  
 DEFT. IDENT. 2 EX 2

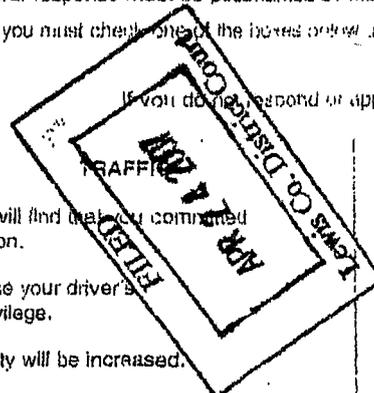
**INFRACTION**

INF	RESPONSE	DISPOSITION	PENALTY	SUSPENDED	SUB-TOTAL	FNDG/JDGT DATE
1	C	NC	\$ 250	\$	\$ 250	7/19/17
2	C	NC	\$	\$	\$	ABSTRACT MLD TO OLYMPIA
3	C	NC	\$	\$	\$	
TOTAL COSTS					\$ 260	

YOU MUST RESPOND WITHIN FIFTEEN (15) DAYS FROM THE DATE ISSUED.

Your response must be postmarked by midnight on the day it is due at the court.

To respond, you must check one of the boxes below and return this form to the court listed on the front.



If you do not respond or appear for court hearings:

The court will find that you committed the infraction.

You will lose your driver's license/privilege.

Your penalty will be increased.

Also, if you do not pay, your case may be sent to a collection agency.

NON- TRAFFIC

The court will find that you committed the infraction.

It is a crime and will be treated accordingly.

Your penalty will be increased.

Also, if you do not pay, your case may be sent to a collection agency.

Here are the three ways you can respond.

Check one box, then sign and date the bottom of the ticket.

I have enclosed a check or money order, in U.S. funds, for the amount listed on the front. I understand this will go on my driving record if "traffic" is checked on the front. DO NOT SEND CASH. NSF checks will be treated as a failure to respond.

Mitigation Hearing. I agree I have committed the infraction(s), but I want a hearing to explain the circumstances. Please send me a court date and I promise to appear on that date. I know I can ask witnesses to appear but they are not required to appear. I understand this will go on my driving record if "traffic" is checked on the front. In some cases the court may allow time payments or reduce the penalty. The court may allow time payments or reduce the penalty where allowed by law.

Contested Hearing. I want to contest (challenge) this infraction. I did not commit the infraction. Please send me a court date, and I promise to appear on that date. The state must prove by a preponderance of the evidence that I committed the infraction. I know I can require (subpoena) witnesses, including the officer who wrote the ticket, to attend the hearing. The court will tell me how to request a witness's appearance. I understand this will go on my driving record if I lose and "traffic" is checked on the front.

My mailing address is: (PLEASE PRINT)

Name: Stephen C. Johnson

Street: None! Apt: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Interpreter Language \_\_\_\_\_

x [Signature] (SIGNATURE) \_\_\_\_\_ (DATE)

County Lewis County Court District  
 Jurisdiction (check one) ( ) Superior (X) District ( ) Municipal Name of City \_\_\_\_\_  
 Applicant's Name Stephen C. Johnson Case Number: C 85203

**Case Type**

(check the category corresponding to the most serious charge)

- \_\_\_\_\_ (1) Felony - Class A+ \_\_\_\_\_ (5) Juvenile Felony - Class A+ \_\_\_\_\_ (9) Dependency
  - \_\_\_\_\_ (2) Felony - Class A \_\_\_\_\_ (6) Juvenile Felony - Class A \_\_\_\_\_ (10) Civil Commitment
  - \_\_\_\_\_ (3) Felony - Class B or C \_\_\_\_\_ (7) Juvenile Felony - Class B or C \_\_\_\_\_ (11) Civil Contempt
  - X (4) Misdemeanor \_\_\_\_\_ (8) Juvenile - Misdemeanor X (12) Other (specify) Appeal
- Charges DWS

Applicant's Address \_\_\_\_\_

Applicant's Telephone (360) 980-4939 (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code) \_\_\_\_\_  
 Date of Birth 10/23/48 Social Security # (optional) \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Occupation \_\_\_\_\_ Employer \_\_\_\_\_ (Name) \_\_\_\_\_ (Address) \_\_\_\_\_ (Telephone) \_\_\_\_\_

**II. Support Obligations**

Total Number Dependents (include applicant in count) 0 If juvenile defendant, does he/she live with parents? (circle) Y N  
 If yes: Father's name Charles Wray Johnson Mother's name (include maiden) Marion E. (Oakley) House

**III. Presumptive Eligibility (check all that apply)**

- a. \_\_\_ Party is indigent because receives public assistance in form of: ( ) AFDC<sup>1</sup> ( ) General Assistance ( ) Food Stamps  
 ( ) Medicaid ( ) Poverty-Related V.A.<sup>2</sup> Benefits ( ) SSI<sup>3</sup> ( ) Refugee Resettlement Benefits ( ) Other; specify \_\_\_\_\_  
 Case Number \_\_\_\_\_ Verified? \_\_\_\_\_ Method \_\_\_\_\_
- b. \_\_\_ Party is indigent because committed to a public mental health facility.  
 Verified? \_\_\_\_\_ Method: \_\_\_\_\_
- c. X Party is indigent because annual income, after taxes, is 125% or less of current federally established poverty level.  
 \$ 0 Specify annual income after taxes \_\_\_\_\_  
 Verified? \_\_\_\_\_ Method: \_\_\_\_\_

If Section III, a, b, or c applies, complete only Sections VIII, X and XI. Submit report to Court. If Section III is not applicable, complete all remaining sections.

**IV. Monthly Income**

a. Monthly take-home pay (after deductions)	\$ <u>0</u>	Verified?	Y	N
b. Spouse's take-home pay (enter N/A if conflict)	\$ _____		Y	N
c. Contribution from any person domiciled with applicant and helping defray his/her basic living costs	\$ _____		Y	N
d. Interest, dividends, or other earnings	\$ _____		Y	N
e. Non-poverty based assistance (Unemployment, Social Security, Workers Compensation, pension, annuities) (DON'T include poverty-based assistance. See IV. a)	\$ _____		Y	N
f. Other income (specify) _____	\$ _____		Y	N
<b>Total Income</b>		\$ <u>0</u>		

**V. Monthly Expenses (for applicant and dependents; average where applicable)**

a. Basic Living Costs - Shelter (rent, mortgage, board)	\$ <u>0</u>	Y	N
Utilities (heat, electricity, water); enter 0 if included in cost of shelter	\$ <u>0</u>	Y	N
Food	\$ _____	Y	N
Clothing	\$ _____	Y	N
Health Care	\$ _____	Y	N
Transportation	\$ _____	Y	N
Loan Payments (specify) _____	\$ _____	Y	N
b. Court imposed obligations (check) ___ fines ___ court costs ___ restitution ___ support ___ other	\$ _____	Y	N
c. Bail/bond paid or anticipated (this offense)	\$ _____	Y	N
d. Other expenses (specify) _____	\$ _____	Y	N
<b>Total Expenses</b>		\$ <u>0</u>	

<sup>1</sup> Aid to Families with Dependent Children  
<sup>2</sup> Veterans' Administration  
<sup>3</sup> Supplemental Security Income

VI. Total Income Part IV, minus Total Expenses Part V

Disposable Net Monthly Income \$ \_\_\_\_\_

VII. Liquid Assets

		Verified?
a. Cash, savings, bank accounts (include joint accounts)	\$ _____	Y N
b. Stocks, bonds, certificates of deposit	\$ _____	Y N
c. Equity in real estate	\$ _____	Y N
d. Equity in motor vehicle required for employment, IF over \$3,000 (list average: value minus \$3,000)	\$ _____	Y N
Make of car _____ Year _____		
e. Equity in additional vehicles (list total value)	\$ _____	Y N
f. Personal property (jewelry, boat, stereo, etc.)	\$ _____	Y N
Total Liquid Assets		\$ _____

VIII. Affidavit and Notification

I, \_\_\_\_\_ (print name) do hereby certify (or declare) under penalty of perjury under the Laws of the State of Washington that the foregoing is true and correct (RCW 9A.72.085). By my signature below, I authorize the court to verify all information provided here. I further swear to immediately report any change in financial status to the court. I understand that if bail is imposed in this matter or if my financial condition changes I may request a redetermination.

Signed [Signature] Date 6 October 2009  
Place \_\_\_\_\_

IX. Determination of Indigency

a. Disposable Net Monthly Income (from Section VI)	\$ _____
b. Total Liquid Assets (from Section VII)	+ \$ _____
c. Total Available Funds (a plus b)	= \$ _____
d. Anticipated Cost of Counsel for Offense Type(s)	\$ _____

\_\_\_\_ If (c) is zero (0) or less, party is **INDIGENT**. \_\_\_\_ If (c) is greater than (d), party is **NOT INDIGENT**.  
 \_\_\_\_ If (c) is more than zero (0) but less than (d), party is **INDIGENT AND ABLE TO CONTRIBUTE**.  
 Assessment Amount \$ \_\_\_\_\_

X. Recommendation

Should this recommendation be modified due to anticipated length or complexity of case? (circle one) Yes No  
If yes, explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other considerations or comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above constitutes my recommendation to the court. I have explained my recommendation to the party.

Screening Agent/Witness (please print) \_\_\_\_\_ Date \_\_\_\_\_  
Signature \_\_\_\_\_ Agency/Organization \_\_\_\_\_

XI. Finding  
 Indigent     Not Indigent     Indigent and Able to Contribute    Assessment \$ \_\_\_\_\_  
 Judge or Judge's Designee [Signature] Title \_\_\_\_\_

**Lewis County DWLS filings for 2010**

RCW	Disposition	Total Count
46.20.342(1)(A) - DRIVING WHILE LICENSE SUSPENDED-1	D - DISMISSED	1
	G - GUILTY	1
46.20.342(1)(A) - DRIVING WHILE LICENSE SUSPENDED-1	Sum:	2

RCW	Disposition	Total Count
46.20.342.1A - DWLS 1ST DEGREE	-	18
	AM - Amended	7
	DO - Dismissed W/O Prejudice	4
	DP - Deferred Prosecution	1
	G - Guilty	26
	NG - Not Guilty	1
	OD - Other Deferral	1
46.20.342.1A - DWLS 1ST DEGREE	Sum:	58

RCW	Disposition	Total Count
46.20.342(1)(B) - DRIVING WHILE LICENSE SUSPENDED-2	D - DISMISSED	2
	G - GUILTY	2
46.20.342(1)(B) - DRIVING WHILE LICENSE SUSPENDED-2	Sum:	4

RCW	Disposition	Total Count
46.20.342.1B - DWLS 2ND DEGREE	-	27
	AM - Amended	37
	AS - Awaiting Sentencing	2
	DO - Dismissed W/O Prejudice	2
	DP - Deferred Prosecution	2
	DW - Dismissed W/Prejudice	7
	G - Guilty	43
	OD - Other Deferral	9
46.20.342.1B - DWLS 2ND DEGREE	Sum:	129

Report compiled on:  
08/03/2011

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**Lewis County DWLS filings for 2010**

RCW	Disposition	Total Count
46.20.342.1C.C - DWLS 3RD DEGREE AID/ABET	AM - Amended	1
	DW - Dismissed W/Prejudice	1
46.20.342.1C.C - DWLS 3RD DEGREE AID/ABET	Sum:	2

RCW	Disposition	Total Count
46.20.342(1)(C) - DRIVING WHILE LICENSE SUSPENDED-3	-	6
	D - DISMISSED	32
	G - GUILTY	13
46.20.342(1)(C) - DRIVING WHILE LICENSE SUSPENDED-3	Sum:	51

RCW	Disposition	Total Count
46.20.342.1C - DWLS 3RD DEGREE	-	247
	AM - Amended	2
	AS - Awaiting Sentencing	14
	D - Dismissed	7
	DO - Dismissed W/O Prejudice	173
	DP - Deferred Prosecution	8
	DW - Dismissed W/Prejudice	155
	G - Guilty	1,067
	OD - Other Deferral	6
	46.20.342.1C - DWLS 3RD DEGREE	Sum:

RCW	Disposition	Total Count
46.20.342 - DRIVING WITH INVALIDATED LICENSE	-	3
	AM - Amended	2
	G - Guilty	1
46.20.342 - DRIVING WITH INVALIDATED LICENSE	Sum:	6
	Sum:	1,931

Report compiled on:  
08/03/2011

The Administrative Office of the Courts, the Washington Courts, and the Washington State County Clerks: 1) Do not warrant that the data or information is accurate or complete; 2) Make no representations regarding the identity of any persons whose names appear in data or information; and 3) Do not assume any liability whatsoever resulting from the release or use of the data or information. The user should verify the information by personally consulting the "official" record reposing at the court of record.

Verbatim Report of Tape-Recorded Proceedings  
State of Washington v. Stephen Johnson

Page 1

LEWIS COUNTY DISTRICT COURT  
STATE OF WASHINGTON

---

STATE OF WASHINGTON, )

Plaintiff, )

vs. )

STEPHEN JOHNSON, )

Defendant. )

NO. C85203

---

VERBATIM REPORT OF TAPE-RECORDED PROCEEDINGS  
Before  
JUDGE MICHAEL P. ROEWE  
February 5, 2009

---

Transcribed By:

Kristin DeLyn Manley, RPR, CCR  
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February 5, 2009  
Capitol Pacific Reporting, Inc. (800) 407-0148

A 7

Verbatim Report of Tape-Recorded Proceedings  
State of Washington v. Stephen Johnson

APPEARANCES:

FOR THE STATE:

MR. SHANE O'ROURKE  
DEPUTY PROSECUTING ATTORNEY

FOR THE DEFENDANT:

MR. STEPHEN JOHNSON  
PRO SE

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GLOSSARY OF PARENTHETICALS

(Indiscernible): Words were heard, but not understood.

(Inaudible): Sounds were heard, which was an apparent response, but could not be understood.

(No audible response): There was no sound.

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P R O C E E D I N G S

THE COURT: The matter is before the court on a motion to dismiss. Mr. Johnson represents himself and is present. The State is represented by Mr. O'Rourke.

Mr. Johnson, are you ready to proceed?

MR. JOHNSON: Yes.

THE COURT: Mr. O'Rourke, is the state ready to proceed?

MR. O'ROURKE: Yes, Your Honor.

THE COURT: Mr. Johnson, it is your motion. I will hear from you.

MR. JOHNSON: Thank you. I was arrested for driving on a suspended license. My license was suspended for failure to pay a ticket. I'm not employed and am disabled. The law that suspended my license I believe is not fair and balanced and therefore it is unconstitutional.

In Mackey versus Monthrym they said that a driver's interest in and continued possession and use of his license is a substantial one. Additionally, it said the length of the suspension is a factor to be considered in

1 determining the strength of the interest. In RCW  
2 46.63.110(6)(b) there is no consideration for the length  
3 of the suspension and I'm not given any credit for a  
4 valuable interest.

5 I believe that the law should, in order to be  
6 constitutional, allow consideration of the suspension in  
7 which there is a punishment towards satisfaction of my  
8 fine. And it has been a year-and-a-half, so I feel that  
9 my license should be returned to me. And the state is  
10 not able to do that with this current statute.

11 The state's interest in suspending an individual's  
12 driver's license for failing to appear, pay or comply  
13 with a notice of traffic infraction is the efficient  
14 administration of traffic regulations and in ensuring  
15 offending drivers appear in court, pay applicable fines  
16 and comply with court orders.

17 Al- - although undoubtedly important, this interest  
18 does not rise to the level of the state's compelling  
19 interest in keeping unsafe drivers off the roadway.  
20 Simply put, failing to resolve a notice of traffic  
21 infraction does not pose the same threat to public  
22 safety as habitually unsafe drivers. That was City of  
23 Redmond versus Moore.

24 In the statutory scheme cited above, which suspends  
25 the driver's license indefinitely for nonpayment, the

1 individual interest in a driver's license is a  
2 substantial one and not outweighed by the state's  
3 interest, which is not a compelling one. That is Moore  
4 also.

5 I found that also in Moore and in a case called  
6 Fusari that the state must balance its interest in -  
7 against my interest and it must consider the length of  
8 the declaration of a privilege or - of a privilege and  
9 the value of it and must consider the length of that  
10 declaration in determining the value of a suspension.

11 Also in Bell versus Burson (phonetic) - in Fusari,  
12 Page 5, identification of the precise dictates of due  
13 process requires consideration of both the government  
14 function involved in the private interest affected by  
15 the official (inaudible) action.

16 Also it says in context possible length of the  
17 wrongful declaration of unemployment ben- - benefit is  
18 an important factor in assessing the impact on the  
19 official action of the private interest.

20 In Bell on Page 3, once a license - licenses are  
21 issued as a petitioner's case - as in the petitioner's  
22 case, their continued possession may become essential to  
23 the pursuit of a livelihood. Suspension of issued  
24 licenses thus involves state action that adjudicates  
25 important interests in the licensee. In such cases

1 licenses are not to be taken away without procedural due  
2 process recorded by the Fourth Amendment. That would be  
3 Sinbatchi (phonetic) Finance Corporation and Goldberg  
4 versus Kelly.

5 This is but an application of the general proposition  
6 that relevant constitutional restraints limit the state  
7 power to terminate an entitlement whether the  
8 entitlement is denominated a right or a privilege. And  
9 that's Sherbert (phonetic) versus Rainier.

10 In addition to that, I was denied a license based on  
11 my lack of a residence address. I do believe that that  
12 impinges on my right to privacy and creates a separate  
13 class of people, those people without addresses who are  
14 not entitled to a driver's license or a state ID card,  
15 which creates great hardships on - on a group of people  
16 that aren't - aren't imposed on other people who do have  
17 addresses. I think that there are a large number of  
18 citizens who have good driving records and are quite  
19 capable of safely operating a motor vehicle.

20 The state's mandate in issuing a driver's license is  
21 to ensure safety on the highways and to keep unsafe  
22 drivers off the road. I do not qualify as one of those  
23 people. I only had - do not have an address and as  
24 such, I have been denied an ID card, which prevents me  
25 from opening a bank account, makes it difficult for me

1 to travel on an airplane, prevents me from cashing a  
2 check, not including the right to drive a motor vehicle.  
3 And yet I have done nothing to deserve that.

4 I do believe that these two statutes do not conform  
5 to the constitution. Article 12 of the Washington State  
6 Constitution, special privileges, immunities prohibited,  
7 no law shall be passed granting to any citizen, class of  
8 citizens or corporation, other than municipal privileges  
9 or immunities, which upon the same terms shall not  
10 equally belong to all citizens or corporations. That's  
11 pretty clear that people without addresses are equally  
12 entitled to an ID card and a driver's license.

13 THE COURT: Anything else, sir?

14 MR. JOHNSON: Thank you. I have no more.

15 THE COURT: Mr. O'Rourke?

16 MR. O'ROURKE: For the most part, I would rely on  
17 the State's response, which is - if the Court has read  
18 it, it is relatively limited. And the reason for that  
19 being is that I - I don't believe that Mr. Johnson has,  
20 in fact, cited any - any case law. There is case law  
21 cited in his brief, but I don't believe he has cited any  
22 case law or statutes that would render the current RCWs  
23 that he is referencing unconstitutional.

24 In particular, I think that the Redmond versus Moore  
25 case is miscited in the Defendant's brief. That case

1 did, in fact, deal with the constitutionality of  
2 suspensions of licenses, but as the Court is aware, it  
3 dealt with administrative due process and the rights of  
4 an individual to be able to be properly heard prior to  
5 their - properly heard and notified prior to their  
6 license being suspended.

7 It does, in fact, look at the balancing test between  
8 the state's interest and what is - and I don't deny that  
9 in my brief - a substantial interest and a right to a  
10 driver's license; however, that particular case dealt  
11 with administrative due process and that process has  
12 since been rectified, at least in the State of  
13 Washington.

14 Now, there are other issues when you deal with states  
15 like Oregon that don't have the same type of  
16 administrative due process or review prior to  
17 suspension, and we deal with that in this court on a not  
18 so infrequent basis. But as far as the Washington due  
19 process prior to license suspension is concerned, the  
20 court in Redmond v. Moore ruled on that and the process  
21 by which an individual's license is suspended has since  
22 been change and it has been deemed to be constitutional.  
23 There has been no case law since Redmond v. Moore  
24 deeming the administrative due process procedures  
25 unconstitutional.

1       As far as the issue of actually whether or not  
2 nonpayment of fines constitutes a valid or  
3 constitutional basis for - for suspending one's license,  
4 there isn't any case law to support that proposition  
5 that it would be unconstitutional.

6       The law is that traffic infractions which are put in  
7 place for the purpose of keeping drivers on the roadway  
8 safe, speeding, other infractions such as that are put  
9 there in order to keep motorists safe. That inherently  
10 is a safety issue.

11       And the nonpayment of those fines - essentially if  
12 one were to - to look, well, what is the recourse at  
13 that point? If we don't have suspension of privilege to  
14 drive, the fines just go straight to collection, they  
15 are never paid. There is essentially no action ever  
16 taken on the tickets.

17       So one could, in essence, accumulate hundreds, if not  
18 thousands, of tickets without any real repercussions  
19 other than to have a massive amount of debt piled up in  
20 collection. But in reality if they never pay that,  
21 there is really no repercussion to the driver.

22       So it is clear that the state did create a balancing  
23 test by saying, well, rather than merely having these  
24 fines just be sent to collection, we are going to have a  
25 process by which if a motorist operates their vehicle in

1 an unsafe fashion, (inaudible) does have to acquire - or  
2 be issued a citation; if they are not going to pay it,  
3 then we are going to suspend their license. And that is  
4 in the state's interest because it removes a privilege  
5 which is substantial.

6 But that, in essence, is the proper procedure  
7 according to the State of Washington when an individual  
8 is not going to make payment of fines. And I don't  
9 believe there is anything cited in the brief or there is  
10 any case law or statutes that exist that would render a  
11 suspension of a license unconstitutional for nonpayment  
12 of fines.

13 As far as the - the issue of right to privacy, equal  
14 protection and the right to travel, that's also  
15 addressed briefly in the State's response. I don't  
16 believe that the right to privacy - I don't - again -  
17 and I don't want to be repetitive, but I don't believe  
18 there is any case law or statute to support that  
19 proposition that merely - a mere request that an  
20 individual notify the Department of Licensing of their  
21 address impinges on that right to privacy.

22 There is a lot of case law that analyzes the Fourth  
23 Amendment's right to privacy within the confines of the  
24 U.S. Constitution and Washington does have a higher  
25 standard, but even in the Washington case law, there is

1 no - there is nothing that would suggest that a mere  
2 notification of a change of address or an address,  
3 period, to the Department of Licensing would impinge on  
4 a person's right to privacy. I think that's too much of  
5 a leap. The case law doesn't support it.

6 As far as right to travel, certainly it infringes on  
7 a person's right to operate a motor vehicle when they  
8 are traveling, but there is no - the right to travel  
9 deals with - the case law traditionally deals with the  
10 rights of an individual to be able to move between  
11 states, interstate travel, to be able to move freely  
12 about the country.

13 And certainly there is nothing inherently - and I  
14 know Mr. Johnson cited his inability to get on an  
15 airplane, but there is nothing certainly preventing him  
16 from moving around, if it is not in a motor vehicle. I  
17 don't think the right to travel has been implicated.

18 And then as far as equal protection, I'll just  
19 address that briefly. I don't think that - when you are  
20 dealing with equal protection, I don't think Mr. Johnson  
21 becomes a protected class, that - or the equal  
22 protection analysis would be triggered in a situation  
23 where his license has merely been suspended or he is an  
24 individual that has to provide an identity. I don't  
25 think there is an equal protection analysis.

1           And I don't think - in short and to close here, I  
2           don't think there is anything in the case law or the  
3           statutory authority that would support the notion that  
4           any of these RCWs or anything to do with Washington's  
5           laws and suspension of licenses would be  
6           unconstitutional. So with that, I have nothing further.

7           THE COURT: Mr. Johnson, do you have a final  
8           argument?

9           MR. JOHNSON: Yes. I have not asked that - I am  
10          asking that the law as it is written be overturned, but  
11          I'm not saying that suspension is not a valid recourse.  
12          I'm saying that the suspension must be balanced against  
13          the fine and I be given credit toward my fine by the  
14          suspension based on the value of that license, is my  
15          understanding the way the cases that I have read read.

16          The state would still be allowed to suspend a license  
17          for nonpayment, but at some point in time when there was  
18          a balance between my interest and the state's interest -  
19          the state's interest in this case is the fine - that I  
20          should receive my driver's license back.

21          THE COURT: Anything else, sir?

22          MR. JOHNSON: No.

23          THE COURT: The matter that the Court has before  
24          it is a charge of driving while license suspended in the  
25          third degree alleged to have occurred on September 19th,

1 2008. The issue that is involved in that is whether the  
2 State can prove beyond a reasonable doubt that on the  
3 date in question Mr. Johnson was operating a motor  
4 vehicle in Lewis County at a time when his right or  
5 privilege to drive a motor vehicle in the state had been  
6 suspended by the Department of Licensing. That's what  
7 is before the Court for resolution on this particular  
8 criminal charge.

9 Mr. Johnson would have us go in a direction that's  
10 been traveled over the last hundred years, since  
11 driver's licenses or cars were invented, a variety of  
12 times in a variety of ways. The arguments that I'm  
13 hearing today are nothing new. They are quite common  
14 and have been common before this court, although not  
15 recently. These things seem to come in waves.

16 Mr. Johnson, the basic point, if I'm understanding  
17 your argument, is that you are being deprived of  
18 something that you have a right to; that is, if I  
19 understand you correctly, that because the state has  
20 deprived you of your right to operate a motor vehicle in  
21 this state, that you should be recompensed by reduction  
22 of your fines.

23 That's somewhat new to me. I have had arguments made  
24 to me in the past that a person should be given credit  
25 for time served in jail against their fines. We don't

1 do that. But I have never actually had somebody argue  
2 that because your license was suspended for not paying  
3 your fine, the fine should be worked off over a period  
4 of time. You presented me with no authority for that  
5 position, not statutory nor case law, particularly not  
6 case law from the State of Washington.

7 The underlying point that I think needs to be made  
8 here was made in this state before you and I were both  
9 born. It is a case called State versus Fred P. Rawson,  
10 a decision of the Supreme Court of this state that was  
11 decided in November of 1942.

12 And in that case the court cited as authority a  
13 learned treatise called Babbitt's Law Applied to Motor  
14 Vehicles, Third Edition, Page 150, Section 223. And the  
15 court goes like this: "A license being neither a  
16 contract nor a right of property within the legal and  
17 constitutional meaning of those terms is no more than a  
18 temporary permit to do that which would otherwise be  
19 unlawful; hence, the authority which granted a license  
20 always retains the power to revoke it either for due  
21 cause of forfeiture or upon a change of policy and  
22 legislation in regard to the subject and such revocation  
23 cannot be pronounced unconstitutional either as an  
24 impairment of contract obligations or as unlawfully  
25 divesting a person of their property rights.

1 "As a general rule, the jurisdiction for the  
2 revocation of a license is vested in the same board,  
3 court or officer who possessed the power to grant the  
4 license."

5 Translated, perhaps, more simply, there is no right  
6 to drive a motor vehicle in this state unless you are  
7 licensed by the State of Washington to do so. It is not  
8 a property right that can be used to apply to the  
9 payment of fines. It is not something that in any way  
10 any of us has a right to do.

11 It is not just for purposes of limiting people from  
12 driving who are unsafe. It is the power of the state to  
13 determine who shall operate a motor vehicle in this  
14 state and under what circumstances.

15 You allege that it violates your right to travel.  
16 Case law from the Supreme Court of the United States,  
17 and almost all 50 of the jurisdictions, (inaudible) the  
18 right to travel to have nothing to do with the right to  
19 operate a motor vehicle.

20 Your right to privacy is alleged to be violated  
21 because they are requiring you to provide them with a  
22 license - or pardon me - with an address before you can  
23 be granted a license. You have cited me no authority  
24 anywhere that says that you have a right to have a  
25 driver's license without providing that address.

1           The purpose of the address is part of the same  
2 process that you cite in some of your cases. In order  
3 for the state to give you due process before they can  
4 revoke your right to drive a motor vehicle or revoke  
5 your right to have a driver's license, they have to give  
6 you notice. That's the concept of due process.

7           The concept of due process requires that they have a  
8 place where that residence - or where that notice can be  
9 sent. The failure of you to be willing or able to give  
10 them a - a license - pardon me - an address where a  
11 notice of revocation can be sent creates a situation  
12 where they don't have to give you the right to drive or  
13 give you the right to have a license.

14          You claim on - violation of the equal protection  
15 clause of both the United States and the Washington  
16 State Constitution. You are not a protected party and  
17 that's what is required to show a violation of equal  
18 protection. You are not a party designed to be  
19 protected from the law in this matter.

20          There is no equal protection violation here. You  
21 have exactly the same ability to get a driver's license  
22 as anyone else if you comply with the rules of the  
23 licensing agency, which is the State of Washington  
24 Department of Licensing.

25          You claim that RCW 46.63.110(6)(b) is

1 unconstitutional. Again, it falls back into the same  
2 argument about right to travel and right to privacy.  
3 The Supreme Court of this state made that determination  
4 back in 1942. They determined that none of us have a  
5 right to have a license unless we meet the requirements  
6 of the state.

7 I find that there is no right that would justify  
8 dismissal of this matter and I'm denying your motion.

9 Do you have any questions?

10 MR. JOHNSON: No.

11 THE COURT: Thank you. This court will be in  
12 recess.

13 MR. O'ROURKE: Thank you.  
14  
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25

C E R T I F I C A T E

I, KRISTIN D. MANLEY, a certified court reporter of the State of Washington, do hereby certify that the foregoing proceedings were tape recorded; that I was not present at the proceedings; that I was requested to transcribe the tape-recorded proceedings; that the tape recording was transcribed stenographically and reduced to typewriting under my direction.

I further certify that the foregoing transcript of the tape-recorded proceedings is a full, true, and accurate transcript of all discernible and audible remarks.

DATED AND SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
KRISTIN D. MANLEY

CCR NO. 2211

# **Reforming Driving While License Suspended Third Degree:**

**Helps Local Governments  
Alleviates Poverty  
Preserves Jobs**

Board for Judicial Administration, February 17, 2012

# Judge Ann Schindler, Division One

According to the 2010 statistics released by the US Census Bureau:

Approximately 97.3 million Americans fall into the low income category; together with the 49 million Americans counted as living below the poverty line, the low income and poor constitute 146.4 million, or 48% of the U.S. population.

# What is DWLS Third Degree?

- i. Failure to furnish proof of treatment or progress in a chemical dependency program (RCW 46.20.342(1)(c)(i))**
- ii. Failure to provide proof of financial responsibility under chapter 46.29 RCW**
- iii. Failure to comply with provisions in RCW 46.29 regarding uninsured accidents (RCW 46.20.342(1)(c)(iii))**
- iv. Failure to respond to a notice of infraction, written promise to appear, or comply with the terms of a notice of infraction per RCW 46.20.289**
- v. Committed an offense in another state that, if committed in WA, would not be grounds for suspension**
- vi. A suspension due to DWLS-2 that was then eligible to have license reinstated, but did not (RCW 46.20.342(1)(c)(vi))**
- vii. Received notice of infraction which results in a suspension under RCW 46.20.267 for intermediate drivers' licenses**
- viii. Non-payment of child support (RCW 74.20A)**

# DWLS 3° Policy Re: Failure to Pay

- Adopted in 1993 at the request of local government in hopes that ticket revenue would increase.
- Ticket revenue did not increase, for a variety of reasons.
- Criminal Justice costs soared.
  - More scarce police resources used for debt collection.
  - More arrests.
  - More jail bookings.
  - Prosecutor costs went up.
  - Court costs went up.
  - Public defense costs went up.

# DWLS 3°

**The most common reason for DWLS 3° filings is the failure to pay traffic infraction fines.**

# There is no correlation between the failure to pay and public safety.

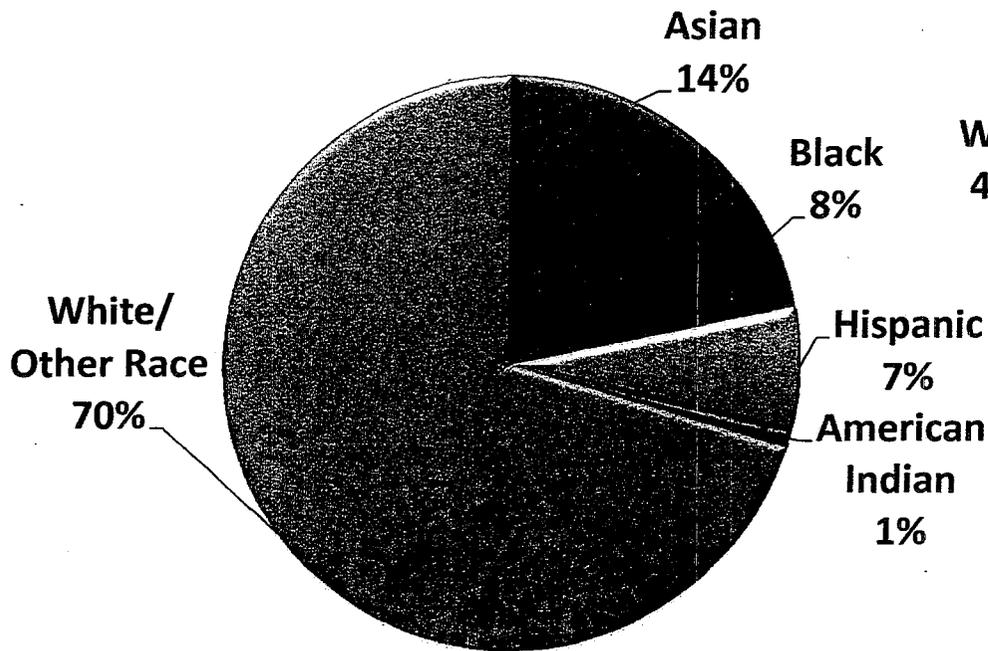
“[D]rivers suspended for non-driving reasons (failure to pay...) posed the lowest traffic safety risk among the suspended driver groups with a risk not much higher than validly-licensed drivers [(Gebbers & DeYoung)].”

*Reasons for Drivers License Suspension, Recidivism and Crash Involvement Among Drivers with Suspended/Revoked Licenses*, USDOT National Highway Traffic Safety Administration (NHTSA), p. 1 (2009).

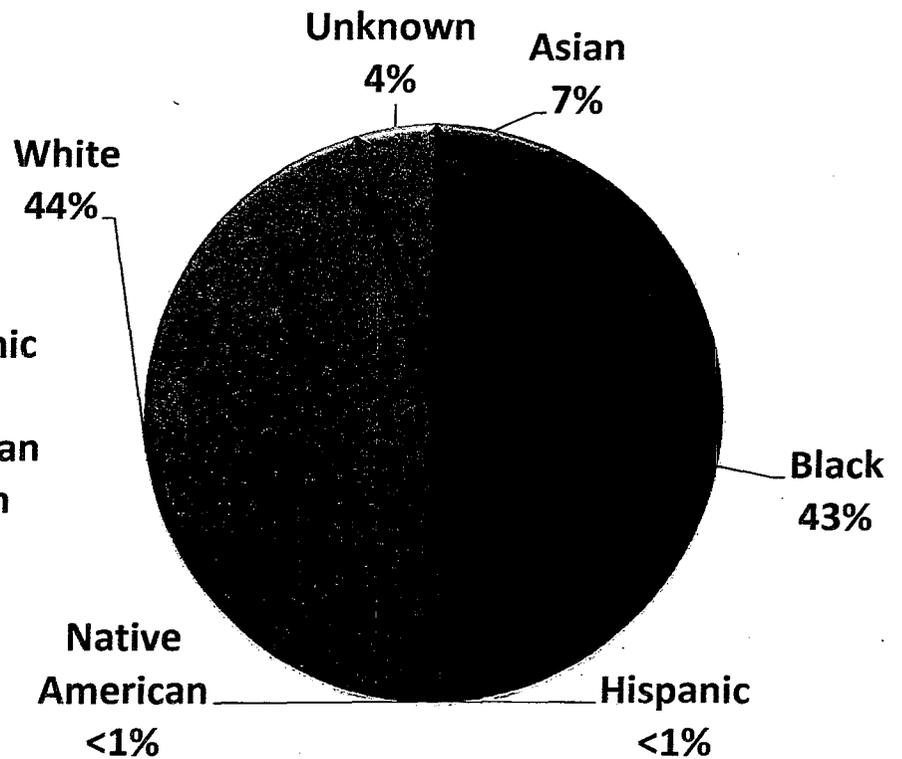
At the same time, drivers suspended for driving reasons were 3.5 times more likely than those suspended for non-driving reasons to be involved in an accident. *Id.* Executive Summary, p. vi.

# There is racial disproportionality.

Seattle Population  
by Race\*



2009 DWLS-3  
Cases Filed



\*Population obtained from 2010 U.S. Census Data

It is unconstitutional to imprison people for their debts, and it perpetuates the cycle of poverty.

“Incarcerating people simply because they cannot afford to pay their legal debts not only is unconstitutional but it has a devastating impacts upon men and women, whose only crime, is that they are poor.” *In For a Penny: The Rise of America’s Debtors’ Prisons*, ACLU, October 4, 2010.

# Automobiles are the key to getting to work.

According to the 2010 American Community Survey 1-year Estimate for Washington:

- 83.5% of Washingtonians drive a car, truck or van to work.
- 5.5% of Washingtonians take public transit.
- 5.7% walk, bike, or other.
- 5.3% worked at home.

# Keep the working poor street legal.

“Cars [and the ability to drive them] are critical assets that facilitate one’s ability to maximize income.” *Building Economic Security in America’s Cities, New Municipal Strategies for Asset Building and Financial Empowerment*, page 39.

“[V]ehicles are important assets for individuals and families; they are critical for transportation to work, school, and childcare...a vehicle is essential to a household’s economic well-being.” *Building Economic Security in America’s Cities, New Municipal Strategies for Asset Building and Financial Empowerment*, page 45.

Forcing people to choose between driving suspended or working is not desirable.

“Suspending a driver’s license is not a desirable option for non-driving offenses and may force people to drive while their licenses are suspended or revoked.” *Reviewing the Issue of the Suspended and Revoked (S/R) Driver*, American Association of Motor Vehicle Administrators Law Enforcement Committee p. 3 (2005).

# It is time for change.

“Given the significant administrative burden (both court and law enforcement) associated with prosecuting drivers found to be driving while suspended and the fact that drivers suspended for non-driving reasons appear to pose a comparatively lower safety risk (i.e., fewer violations and crashes while suspended) compared to those who are suspended based on driving reasons, the findings may provide a foundation for reconsidering how motor vehicle agencies, law enforcement and the courts deal with license suspension for non-driving reasons.”

*Reasons for Drivers License Suspension, Recidivism and Crash Involvement Among Drivers with Suspended/Revoked Licenses,* USDOT National Highway Traffic Safety Administration (NHTSA), p. 23 (2009).

# City of Seattle Cases Where DWLS 3 is the Most Serious Charge 2006

Jail Bookings	496
Public Defense Costs	\$96,351
Jail Costs	\$92,505
Prosecutor	\$110,000
Total	\$298,856

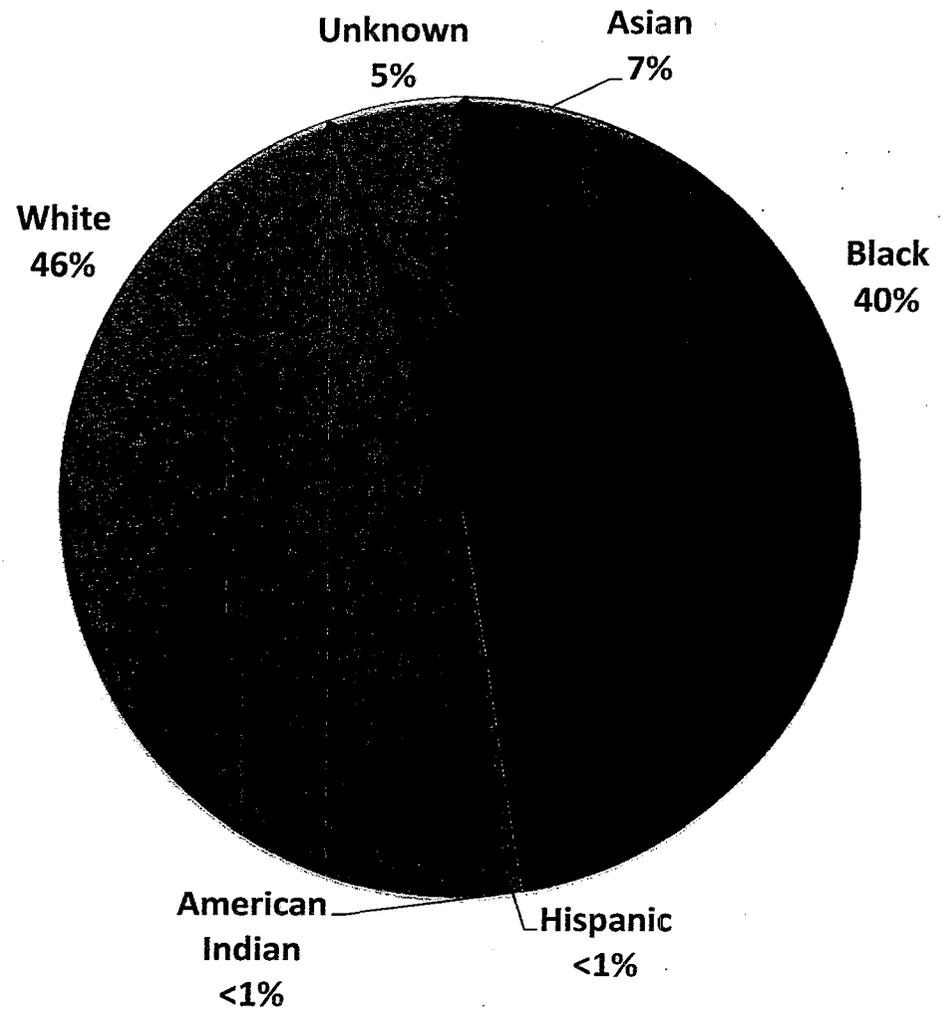
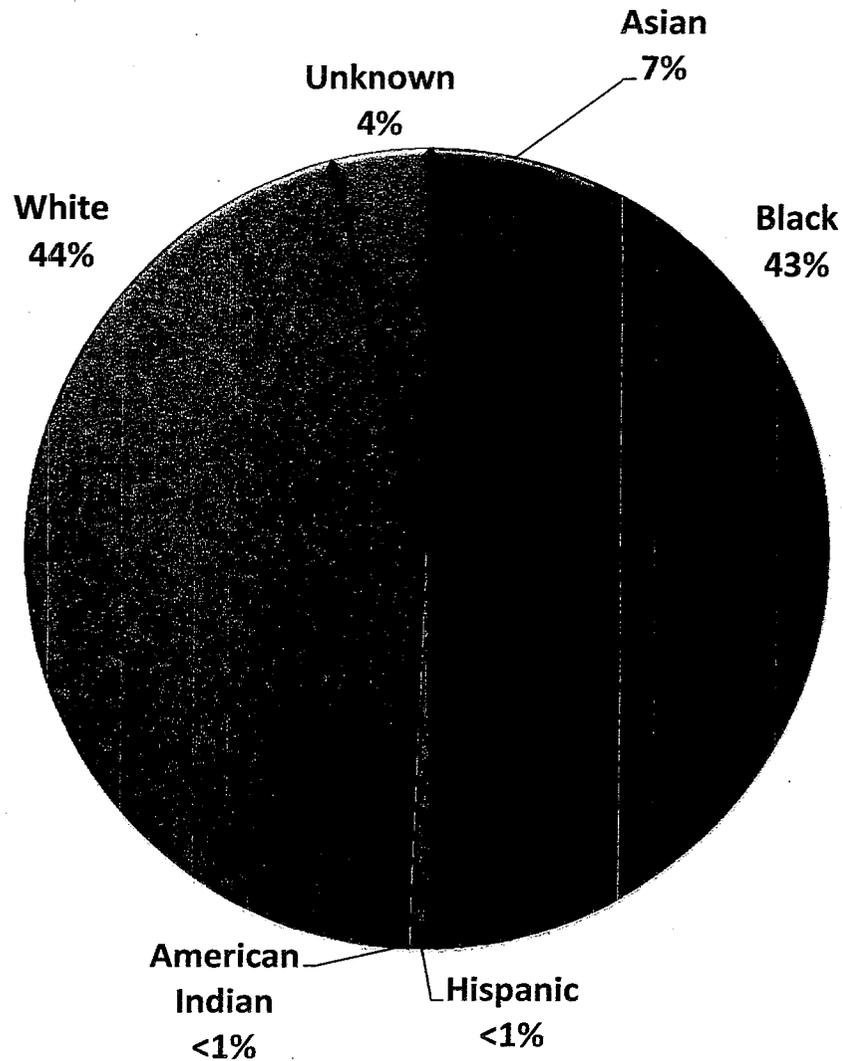
# Local Jurisdiction Savings Public Defense and Jail Costs

Year	Traffic Non-Alcohol Bookings/ DWLS 3	DWLS 3 Cases with Public Defense	Jail Bookings Cost	Public Defense Cost
2009	918/466	733	$\$221 \times 466 = \$102,986$	$\$446 \times 733 = \$326,918$
2011	488/248	255	$\$314 \times 248 = \$77,872$	$\$447 \times 255 = \$113,985$
Total Savings Per Year			\$25,114	\$212,933

# Statewide Savings Public Defense and Jail Costs

Year	DWLS3 Bookings	DWSL 3 Cases with Public Defense	Jail Bookings Cost	Public Defense Cost
2009	64,260	102,000	$\$75 \times 64,260$ \$4,819,500	$\$175 \times 102,000$ = \$17,850,000
2013	50,000	51,000	$\$100 \times 50,000$ = 5,000,000	$\$200 \times 51,000$ = \$10,200,000
Total Savings Per Year				\$7,650,000

# We can affect racial disproportionality. 2009 2011



\*Population obtained from 2010 U.S. Census Data

## **DWLS 3° Charges Will Still Be Filed When:**

- i. Failure to furnish proof of treatment of progress in a chemical dependency program (RCW 46.20.342(1)(c)(i))**
- ii. Failure to provide proof of financial responsibility under chapter 46.29 RCW**
- iii. Failure to comply with provisions in RCW 46.29 regarding uninsured accidents (RCW 46.20.342(1)(c)(iii))**
- iv. Failure to respond to a notice of infraction, written promise to appear, or terms of notice of infraction per RCW 46.20.289 for a moving violation**
- v. Committed an offense in another state that, if committed in WA, would not be grounds for suspension**
- vi. A suspension due to DWLS-2 that was then eligible to have license reinstated, but did not (RCW 46.20.342(1)(c)(vi))**
- vii. Received notice of infraction which results in a suspension under RCW 46.20.267 for intermediate drivers' licenses**
- viii. Non-payment of child support (RCW 74.20A)**

# **Reasons for Driver License Suspension, Recidivism, and Crash Involvement Among Drivers With Suspended/ Revoked Licenses**

**FINAL REPORT**

January 2009

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16. Abstract  In February 2005, AAMVA convened a working group comprised of motor vehicle agency representatives, law enforcement professionals, judges, prosecutors, researchers and highway safety professionals from NHTSA, FHWA and FMCSA to develop a needs assessment to address the problem of driving while suspended. The working group determined that not enough was known about the depth and breadth of the issue and that research was needed to more fully understand the changing relationship between license suspension, reasons for suspension and highway safety outcomes. This study was commissioned in response to the working group's call for additional research. The research objectives defined for this study included, determining the number of drivers that are suspended/revoked under state laws that allow a driver's license to be suspended/revoked for non-driving offenses; determining the number of those drivers that are subsequently cited for driving while suspended, determining the extent of crash involvement by those drivers; and exploring the relationship between driving behavior and violations of those laws. The analysis conducted for this study provides a baseline for further discussion by the AAMVA suspended/revoked driver working group. The research results point to differences between the two groups when considering driving behavior. Overall, the analysis provides information to administrators and safety experts indicating the two groups of suspend drivers differ on multiple dimensions.			
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## EXECUTIVE SUMMARY

There is a commonly held belief among motor vehicle administrators, law enforcement, and the courts that suspended drivers pose a significant traffic safety risk when they continue to drive. As such, driving with a suspended or revoked license is considered a serious driving offense in most jurisdictions. There is some research to support this assessment. For example, in 2000, the AAA Foundation conducted a study entitled *Unlicensed to Kill* and a follow-up study, *Unlicensed to Kill, the Sequel*. These studies evaluated data from 1993 through 1999 on fatal crashes involving suspended and/or revoked and unlicensed drivers. Researchers found that “of the 278,078 drivers involved in fatal crashes in the United States...3.7 percent were unlicensed, 7.4 percent were driving on an invalid (e.g., suspended, revoked, denied/cancelled) license, and 2.7 percent were of unknown license status” (Griffin & DeLaZerda, 2000). However, other research has found that crash rates vary widely based on the reason for suspension/revocation and that drivers suspended for non-driving reasons posed the lowest traffic safety risk among the suspended-license groups with a risk comparable to those of the validly licensed drivers (Gebbers & DeYoung, 2002).

In February 2005, AAMVA convened a working group comprised of motor vehicle agency representatives, law enforcement professionals, judges, prosecutors, researchers, and highway safety professionals from the National Highway Traffic Safety Administration (NHTSA), the Federal Highway Administration (FHWA), and the Federal Motor Carrier Safety Administration (FMCSA) to discuss and map-out what needs to be done to address the problem of driving with a suspended license. The working group determined that not enough was known about the depth and breadth of the issue and that research was needed to more fully understand the changing relationship between license suspension, reasons for suspension, and highway safety outcomes. This study was commissioned in response to the working group’s call for additional research.

The research objectives defined for this study include the following:

1. Determine the number of drivers with licenses that are suspended/revoked under State laws that allow a driver’s license to be suspended/revoked for non-driving offenses;
2. Determine the number of those drivers who are subsequently cited for driving while suspended;
3. Determine the extent of crash involvement by those drivers; and
4. Explore the relationship between driving behavior and violations of those laws.

To achieve these objectives, the research team developed a phased work program that included a nationwide survey of motor vehicle agencies to document current driver monitoring, license suspension/revocation, and driver history data archive and retrieval practices; a review of State laws governing license suspension; and a detailed analysis of suspended driver history data for six representative case study jurisdictions. It should be noted that the study did not address unlicensed drivers.

Key findings include:

- All 50 States and the District of Columbia have laws that permit the State motor vehicle agency and/or the courts to withdraw driving privileges for at least some non-driving reasons. The most common non-driving reasons for suspension include:
  - ◆ Failure to comply with a child support order (47 jurisdictions or 92%);
  - ◆ Failure to maintain proper insurance (45 jurisdictions or 88%);
  - ◆ Failure to appear in court to satisfy a summons for a moving violation (43 jurisdictions or 84%);

- ◆ Fraudulent application for driver's license or vehicle registration documents (40 jurisdictions or 78%);
- ◆ Altered or unlawful use of a driver's license (39 jurisdictions or 76%);
- ◆ Alcohol and drug-related offenses by minors, other than DUI (38 jurisdictions or 75%);
- ◆ Convictions for drug-related offenses, other than DUI (34 jurisdictions or 67%); and
- ◆ Failure to pay a motor vehicle and/or court fines, fees, and surcharges (31 jurisdictions or 61%).

Other less common non-driving reasons for suspension include:

- ◆ Truancy (15 jurisdictions or 29%);
  - ◆ Fuel theft (14 jurisdictions or 27%);
  - ◆ Delinquent conduct by a minor (13 jurisdictions or 25%);
  - ◆ Use of fictitious license plates, registration, or inspection sticker (13 jurisdictions or 25%);
  - ◆ Failure to appear in court to satisfy a parking ticket (8 jurisdictions or 16%);
  - ◆ Making terrorist threats (NY and PA);
  - ◆ Graffiti (CO);
  - ◆ Failure to register as a sex offender (MA); and
  - ◆ Attempt to purchase tobacco by a minor (OR).
- Our data show an overall decrease of 26 percent in the total number of suspended drivers over the analysis period. Concurrent with this overall reduction in the number of suspended drivers, we find an increase of drivers suspended for non-driving reasons. Drivers suspended for non-driving reasons rises from 27 percent of all suspended drivers in 2002 to 36 percent of all suspended drivers by 2005 in our database.
  - Our analysis separates drivers with suspended licenses into two groups., suspended for driving reasons and suspended for non-driving reasons.
    - ◆ Suspended for driving reasons: our database consists of 53,875 drivers suspended for driving reasons, of which about 42 percent (22,424) are subsequently convicted of a violation while their driving privileges are suspended; and
    - ◆ Suspended for non-driving reasons: Our database consists of 24,248 drivers suspended for non-driving reasons of which about 38 percent (9,288) are subsequently convicted of a violation while their driving privileges are suspended.
  - **Approximately 30 percent of drivers suspended for driving reasons (15,850 of 53,875) commit a moving violation while under suspension compared to approximately 15 percent of drivers suspended for non-driving reasons (3,613 of 24,248).**
  - **Approximately 3.4 percent of drivers suspended for driving reasons (1,832 of 53,875) are convicted of driving while suspended compared to 2.7 percent of drivers suspended for non-driving reasons (656 of 24,288).**
  - **Less than 1 percent (0.09%) of drivers suspended for non-driving reasons (218 of 24,248) are involved in a crash while their driver's license is suspended. This compares to over 3 percent (3.4%) of drivers suspended for driving reasons (1,835 of 53,875) who are involved in a crash while their driver's license is suspended.**

The analysis conducted for this study provides a baseline for further discussion by the AAMVA suspended/revoked driver working group. The research results point to differences between the two groups when con-

sidering driving behavior. Overall, the analysis provides information to administrators and safety experts indicating the two groups of suspended drivers differ on multiple dimensions.

From a policy perspective, the findings appear to support the conclusion that not all suspended drivers behave the same and therefore can and perhaps should be treated differently by motor vehicle agencies, law enforcement, and the courts. This is not to say that suspensions of drivers for non-driving reasons is unfounded; on the contrary, we make no statement about the use of suspensions regardless of the reasons. What we find is that when comparing the two groups, those who are suspended for driving reasons versus those suspended for non-driving reasons, our findings suggest that these two groups are not homogeneous in behavior and therefore may need differing policy actions. This presents a dilemma for policymakers in the context of current driver control and management systems and a multitude of Federal and State laws already in place.

A potential option might be to consider a new licensure status that differentiates between drivers suspended for bad driving and those suspended for financial or compliance reasons. In fact, in many jurisdictions there is already a dual status system in place for withdrawing driving privileges that could be used as the basis of a new licensure status. The existing distinction is between license suspension and revocation. Suspensions most often represent a temporary withdrawal while revocations are a more severe and sometimes permanent sanction.



# **SECTION 1: INTRODUCTION**

## **Background and Problem Statement**

Although originally intended as a sanction to address poor driving behavior in the United States, driver's license suspension is now commonly used as a means to punish individuals engaged in criminal and/or otherwise socially undesirable behavior unrelated to the operation of a motor vehicle. Suspension is also used as a means to compel compliance with administrative requirements such as appearing in court to answer a summons and payment of fines, fees, and surcharges. Laws permitting driver's license suspension for non-driving reasons are now on the books in all 50 States and the District of Columbia. Common non-driving reasons for suspension include, but are not limited to, failure to appear in court, controlled substance convictions, failure to pay fines/fees, failure to maintain proper insurance, and failure to pay child support (Carnegie, 2007). Furthermore, several recent studies have found that suspensions for non-driving reasons outnumber suspensions ordered to punish habitual bad driving in some jurisdictions (Carnegie, 2007; Joerger, 2002; Gebers & DeYoung, 2002).

Studies also indicate that many suspended/revoked drivers continue to drive after their suspension. For example, recent studies conducted in New Jersey and Oregon found that approximately 25 percent of suspended drivers are subsequently convicted of driving while suspended (Carnegie, 2002; Joerger, 2002). Other studies in California and Wisconsin documented similarly significant rates of driving while suspended (Gebers & DeYoung, 2002; McCartt et al., 2002). One study even found that in Michigan 30 to 70 percent of drivers whose licenses have been suspended or revoked for driving under the influence of drugs or alcohol continue to drive during the suspension period (Eby et al., 2002)

There is a commonly held belief among motor vehicle administrators, law enforcement, and the courts that suspended drivers pose a significant traffic safety risk when they continue to drive. As such, driving with a suspended or revoked license is considered a serious driving offense in most jurisdictions. There is some research to support this assessment. For example, in 2000, the AAA Foundation conducted a study entitled *Unlicensed to Kill* and a follow-up study, *Unlicensed to Kill, the Sequel*. These studies, evaluated data from 1993 through 1999 on fatal crashes involving suspended and/or revoked and unlicensed drivers. Researchers found that "of the 278,078 drivers involved in fatal crashes in the United States... 3.7 percent were unlicensed, 7.4 percent were driving on an invalid (e.g., suspended, revoked, denied/cancelled) license, and 2.7 percent were of unknown license status" (Griffin & DeLaZerda, 2000).

It is important to note that the AAA Foundation studies did not examine the underlying reason for suspension to differentiate document crash incidence among drivers suspended for driving reasons versus non-driving reasons. This is important because there is also some evidence that crash patterns may be different between these two groups. For example, a 2002 study conducted by Michael A. Gebers and David J. DeYoung for the California Department of Motor Vehicles concluded that suspended/revoked drivers are a heterogeneous group, both demographically and with regard to their driving behavior. The research found all suspended driver groups have higher crash and conviction rates compared to validly licensed drivers, but the rates vary widely based on the reason for suspension/revocation. They further found that drivers suspended for non-driving reasons (failure to pay child support) posed the lowest traffic safety risks among the suspended driver groups with a risk not much higher than validly licensed drivers (31).

The top priority of the Secretary of the U.S. Department of Transportation (DOT) is to improve the safety of the Nation's transportation system. President Bush challenged DOT to develop creative ways to reduce the number of fatalities on the Nation's highways. The DOT Secretary accepted this challenge and established a

goal to reduce the highway fatality rate to not more than 1.0 per 100 million vehicle miles traveled (VMT) by 2008, down from 1.7 per 100 million VMT in 1996. The Secretary reached out to all organizations involved in promoting highway safety to support this goal. Addressing the problem of suspended/revoked drivers more effectively could be an important part of a successful strategy.

More research is needed to define the full scope of the suspended and revoked driver problem nationwide to better understand the comparative highway safety risk of drivers suspended for driving reasons versus non-driving reasons and to better understand the effectiveness of various interventions used to address the problem of driving while suspended. The issue of driving while suspended has been a key area of focus for the American Association of Motor Vehicle Administrators (AAMVA) Law Enforcement Committee for several years.

In February 2005, AAMVA convened a working group comprised of motor vehicle agency representatives, law enforcement professionals, judges, prosecutors, researchers, and highway safety professionals from NHTSA, FHWA, and FMCSA to discuss and map-out what needs to be done to address the problem. Organizations represented on the *Suspended and Revoked Driver Working Group* include:

- AAMVA Driver's License & Control Committee (DL&C)
- AAMVA Financial Responsibility and Insurance Committee (FR&I)
- AAMVA Law Enforcement Committee (LE)
- American Association of State Highway Transportation Officials (AASHTO)
- Federal Highway Administration (FHWA)
- Federal Motor Carrier Safety Administration (FMCSA)
- Governors Highway Safety Association (GHSA)
- International Association of Chiefs of Police (IACP)
- National Center for State Courts (NSCS)
- National Council for State Legislators (NCSL)
- National Cooperative Highway Research Program (NCHRP)
- National Highway Traffic Safety Administration (NHTSA)
- National Sheriffs Association (NSA)
- National Traffic Law Center (NTLC)
- Rutgers University, Alan M. Voorhees Transportation Center
- Transportation Research Board (TRB)

The first meeting of the working group was held February 8–9, 2005, in Albuquerque, New Mexico. As a result of this meeting, AAMVA published a “white paper” framing the driving while suspended problem from various perspectives—law enforcement, courts, prosecutors, etc. and broadly defining next steps to address the problem. A research subcommittee of the group met again July 19-20, 2005, at the National Center for State Courts to define preliminary research steps necessary to investigate the incidence of driving while suspended and crash involvement for suspended/revoked drivers. This research study is the first step toward advancing the research agenda outlined by the working group.

## **Research Objectives and Approach**

The research objectives defined for this study were developed with input from the *Suspended and Revoked Driver Working Group* and included the following:

1. Determine the number of drivers who have suspended/revoked licenses under State laws that allow a driver's license to be suspended/revoked for non-driving offenses;
2. Determine the number of those drivers who are subsequently cited for driving while on a suspended or revoked license;
3. Determine the extent of crash involvement by those drivers; and
4. Explore the relationship between driving behavior and violations of those laws.

To achieve these objectives, the research team developed a phased work program that included a nationwide survey of motor vehicle agencies to document current driver monitoring, license suspension/revocation, and driver history data archive and retrieval practices; a review of State laws governing license suspension; and a detailed analysis of suspended/revoked driver history data for four representative case study jurisdictions. It should be noted that the study did not address unlicensed drivers.

## **Report Outline**

The remainder of this report summarizes the results of the research. Section two describes the results of the motor vehicle agency survey and presents a broad legislative review of license suspension laws in the 50 States and the District of Columbia. Section three summarizes the process used to select the case-study jurisdictions profiled as part of the suspended driver data analysis. Section four describes data acquisition and analysis methods; presents the results of the analysis; and describes suspension patterns, including: the incidence of subsequent conviction for driving while suspended and crash involvement among suspended/revoked drivers in four case study jurisdictions. Finally, section five presents a discussion of the study's key findings and recommendations for future research.

## SECTION 2: STATE AGENCY SURVEY AND LEGISLATIVE REVIEW

As described briefly above, phase one research involved conducting a survey of State motor vehicle agencies and a review of State laws governing driver's license suspension in the United States. This section describes survey methods and results and summarizes suspension laws and policies in the 50 States and the District of Columbia.

### Agency Survey

In July and August 2006, the research team conducted a survey of U.S. State motor vehicle agencies to document current driver monitoring, license suspension/revocation, and driver history data archive and retrieval practices. The survey was designed with input and assistance of AAMVA research staff and conducted using AAMVA's *Websurveyer* Internet survey instrument. The survey contained 17 multiple-choice and open-ended questions.

Survey respondents were recruited via various AAMVA listserv and e-newsletter publications. In addition, efforts were made to increase survey response rates by contacting AAMVA region managers and with targeted e-mail and phone contacts to ensure appropriate geographic participation within each AAMVA service region. Survey responses were compiled electronically via *Websurveyer* and exported for use in Microsoft Excel. Data analysis was conducted by researchers at the Voorhees Transportation Center.

### General Findings

A total of 36 jurisdictions responded to the survey. Complete responses were received from the following jurisdictions, organized by AAMVA service region:

**Table 1: State survey responses by AAMVA region**

Region I	Region II	Region III	Region IV
Connecticut	Alabama	Indiana	Arizona
Delaware	Arkansas	Kansas	Colorado
District of Columbia	Florida	Michigan	Idaho
Maine	Kentucky	Minnesota	Montana
Maryland	North Carolina	Missouri	Oregon
Massachusetts	South Carolina	Nebraska	Utah
New York	Tennessee	North Dakota	Washington
Pennsylvania	Virginia	Ohio	Wyoming
Rhode Island		South Dakota	
Vermont		Wisconsin	

For comparative purposes, the responding jurisdictions were categorized by size of jurisdiction in terms of number of licensed drivers in each State. Table 2 provides a breakdown of jurisdictions responding to the survey by size of jurisdiction.

**Table 2: Size of responding jurisdiction**

Size of Jurisdiction (number of licensed drivers)	Number of Respondents	Percent
Large (more than 5 million)	9	25%
Medium (1,000,001 to 5 million)	17	47%
Small (1 million or less)	10	28%
Total	36	100%

**Table 3: Licensed versus suspended drivers in each State (2005)**

State	Number of Licensed Drivers	Number of Suspended Drivers	Percent Suspended
AK	2,035,490	90,000	4.4%
AL	3,668,028	156,824	4.3%
AR	2,035,490	90,000	4.4%
AZ	4,701,960	194,260	4.1%
CO	4,477,556	400,000	8.9%
CT	2,700,000	100,000	3.7%
DC	340,000	9,000	2.6%
DE	619,878	106,501	17.2%
FL	10,000,000	1,000,000	10.0%
ID	1,000,000	65,000	6.5%
IN	5,500,000	200,000	3.6%
KY	3,000,000	100,000	3.3%
MA	5,000,000	54,000	1.1%
MD	3,846,425	129,976	3.4%
ME	1,000,000	23,000	2.3%
MN	3,000,000	300,000	10.0%
MO	4,100,000	325,000	7.9%
MT	733,679	40,000	5.5%
ND	450,000	25,000	5.6%
NE	1,300,000	60,000	4.6%
NY	10,000,000	400,000	4.0%
OH	8,000,000	75,000	0.9%
OR	2,700,000	300,000	11.1%
RI	750,000	71,955	9.6%
SD	550,000	22,000	4.0%
TN	4,400,000	600,000	13.6%
UT	1,800,000	230,000	12.8%
VA	5,200,000	1,700,000	32.7%
VT	588,194	143,365	24.4%
WA	5,000,000	181,000	3.6%
WI	3,930,000	119,430	3.0%
WY	450,000	16,000	3.6%

As part of the survey, participants were asked to estimate (on average) how many drivers were suspended and/or revoked at any given time in their jurisdiction. Responses were received from 32 jurisdictions. According to the data provided, the average rate of suspension among those jurisdictions participating in the survey was 7.4 percent. Suspension rates ranged from a low of approximately 1 percent in Massachusetts to a high of nearly 33 percent in Virginia. A similar survey conducted by the research team in 2004 found similar rates of suspension (Carnegie, 2007). Table 3 provides a breakdown of the number of suspended drivers as a proportion to the total licensed driver population in each State.

Twenty-two jurisdictions responding to the survey (61%) use a point-based system to monitor driver behavior. Seven jurisdictions (19%) use an occurrence-based system, and another seven jurisdictions (19%) monitor driving behavior using some combination of both point- and occurrence-based monitoring. All 36

jurisdictions responding to the survey reported suspending and/or revoking driving privileges for non-driving reasons.

### *Driver history data archiving and retrieval practices*

**Data archival practices** vary significantly by jurisdiction. Approximately one third of the survey respondents (11 jurisdictions) reported archiving driver history data and records indefinitely. One third (11 jurisdiction) reported archiving data for more than 10 years but not indefinitely; and 10 jurisdictions (30%) reported saving driver history data between 5 and 10 years. Three jurisdictions (Connecticut, Maryland, & North Dakota) reported purging some data after as little as three years.

**Data storage platforms** also varied by jurisdiction and ranged from mainframe data management systems such as IBM VSAM, IMS, and CICS to scaleable server databases such as Oracle, to smaller-scale database management programs such as Microsoft SQL and IBM DB2. Sixteen of the jurisdictions responding to the survey (44%) reported maintaining their driver history data using mainframe computer systems. Four (11%) reported using an Oracle system and 11 jurisdictions (31%) reported using smaller-scale systems run on local servers. Respondents from five jurisdictions provided no answer or were unsure of what data platform was used in their jurisdictions. A cross-reference of jurisdiction size with selected database platform revealed no relationship between the size of the jurisdiction and the platform used. Most, but not all, jurisdictions responding to the survey (83%) reported maintaining a data coding index or single-source data dictionary for driver history data entry purposes.

Twenty-three jurisdictions (64%) responding to the survey reported entering **data related to crash involvement** as part of driver histories. The level of crash data detail varied by jurisdiction and ranged from very basic data (e.g., crash date and whether the crash involved a fatality) to very detailed data (e.g., crash date, type of crash, number of vehicles involved, fatality involvement, amount of property damage, and crash location). In 26 jurisdictions, complete crash records are maintained by agencies other than the motor vehicle licensing agency.

Thirty-one of the 36 survey respondents provided a brief summary of how data is retrieved for statistical analysis. All 31 respondents providing an answer to this question reported that **data requests** beyond standard statistical reports must be made in writing and require some level of programming based on the query criteria specified. The typical timeframe for receiving data ranged from 1-14 days (11 jurisdictions), to 15-30 days, (6 jurisdictions) to an unknown period of time (15 jurisdictions). Those reporting an unknown period of time indicated that the timeframe depends largely on the extent and nature of the data request. All 31 jurisdictions that responded to this question also provided contact information for the individuals in their agencies to whom a request for data can be submitted.

### **Legislative Review**

The reasons for driver's license suspension are diverse, complex, and sometimes interrelated. Reasons include those that are driving-related (e.g., DUI, habitual bad driving, reckless driving, and driving while suspended); those that are not driving-related (e.g., failure to pay child support or failure to appear in court for a non-driving offense and suspensions imposed for drug-related offenses not involving the operation of a motor vehicle); and those that are for compliance reasons indirectly related to driving behavior or motor vehicle use (e.g., failing to appear in court to pay/satisfy a parking ticket or moving violation; failing to maintain proper auto insurance; and failing to pay court/agency fines and fees that stem from a driving-related infraction) (Carnegie, 2007).

As part of this study, the research team conducted a review of State laws governing driver's license suspension in the 50 States and the District of Columbia. The primary purpose of the review was to determine the

extent to which various jurisdictions currently withdraw driving privileges for non-driving reasons. The review drew upon information and data from three primary sources: (1) the nationwide survey of motor vehicle agencies described earlier in this section (36 jurisdictions responded to the survey); (2) a 2004 survey of motor vehicle agencies conducted for the New Jersey Motor Vehicle Commission (Carnegie, 2007); and (3) a review of State driver's licensing documents and statutes accessed via the Internet.

Currently, all 50 States and the District of Columbia have laws that permit the State motor vehicle agency and/or the courts to withdraw driving privileges for at least some non-driving reasons. The most common non-driving reasons for suspension include the following:

- Failure to comply with a child support order (47 jurisdictions or 92%);
- Failure to maintain proper insurance (45 jurisdictions or 88%);
- Failure to appear in court to satisfy a summons for a moving violation (43 jurisdictions or 84%);
- Fraudulent application for a driver's license or vehicle registration documents (40 jurisdictions or 78%);
- Altered or unlawful use of a driver's license (39 jurisdictions or 76%);
- Alcohol and drug-related offenses by minors, other than DUI (38 jurisdictions or 75%);
- Convictions for drug-related offenses, other than DUI (34 jurisdictions or 67%); and
- Failure to pay motor vehicle and/or court fines, fees, and surcharges (31 jurisdictions or 61%).

Other less common reasons for suspension include the following:

- Truancy (15 jurisdictions or 29%);
- Fuel theft (14 jurisdictions or 27%);
- Delinquent conduct by a minor (13 jurisdictions or 25%);
- Use of fictitious license plate, registration, or inspection sticker (13 jurisdictions or 25%);
- Failure to appear in court to satisfy a parking ticket (8 jurisdictions or 16%);
- Making terrorist threats (New York and Pennsylvania);
- Graffiti (Colorado);
- Failure to register as a sex offender (Massachusetts); and
- Attempt to purchase tobacco by a minor (Oregon).

Table 4 summarizes the reasons for suspension in each jurisdiction.

**Table 4: Reasons for driver's license suspension/revocation in the United States**

	AL	AK*	AZ	AR	CA*	CO	CT	DE	DC	FL	GA*	HI*	ID	IL*	IN	IA*	KS	KY	LA*	ME	MD	MA	MI	MN	MS*	MO
<b>DRIVING-RELATED REASON FOR SUSPENSION</b>																										
Driving while intoxicated or under the influence of drugs	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Driving while suspended or revoked	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Reckless driving																										
Careless driving																					■		■	■		
Leaving the scene of an accident	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Accumulation of points or "countable" violations/crashes	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
<b>NON-DRIVING REASONS FOR SUSPENSION</b>																										
Failure to appear in court to satisfy a summons for a moving violation	■		■	■	■	■	■	■	■	■	■			■	■		■	■	■	■	■	■	■	■	■	■
Failure to appear in court to satisfy a parking ticket																										
Failure to pay a motor vehicle fine, surcharge or fee	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Failure to pay court fines, fees or surcharges	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Failure to comply with a child support order	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Conviction for a drug-related offense other than DUI	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Failure to maintain proper insurance		■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Altered or unlawful use of a driver's license	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Fictitious license plates, registration, inspection etc.							■	■		■											■	■	■			
Fraudulent application for driver's license or vehicle registration documents	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Alcohol and drug related offenses by minors other than DUI	■	■	■	■	■	■	■	■		■	■	■		■	■	■	■				■	■	■	■	■	■
Truancy	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Delinquent conduct by a minor			■		■	■				■							■	■					■			

	MT	NE	NV*	NH*	NJ*	NM*	NY	NC	ND	OH	OK*	OR	PA	RI	SC	SD	TN	TX*	UT	VT	VA	WA	WV*	WI	WY	
<b>DRIVING-RELATED REASON FOR SUSPENSION</b>																										
Driving while intoxicated or under the influence of drugs	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Driving while suspended or revoked	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Reckless driving																										
Careless driving													■								■					
Leaving the scene of an accident		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Accumulation of points or "countable" violations/crashes	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
<b>NON-DRIVING REASONS FOR SUSPENSION</b>																										
Failure to appear in court to satisfy a summons for a moving violation	■	■	■	■	■		■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Failure to appear in court to satisfy a parking ticket																										
Failure to pay a motor vehicle fine, surcharge or fee	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Failure to pay court fines, fees or surcharges	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Failure to comply with a child support order	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Conviction for a drug-related offense other than DUI	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Failure to maintain proper insurance	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Altered or unlawful use of a driver's license		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Fictitious license plates, registration, inspection etc.							■			■		■	■	■							■	■	■			
Fraudulent application for driver's license or vehicle registration documents	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Alcohol and drug related offenses by minors other than DUI	■		■	■	■		■					■	■	■	■	■	■	■			■	■	■	■	■	
Truancy	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Delinquent conduct by a minor										■		■					■	■					■			

Notes: The data presented in this table was primarily derived from a 2005 survey of motor vehicle agencies (31 responses were received). The survey data was supplemented with a review of on-line material. Information for those states marked with an \* was compiled from motor vehicle licensing documents and statutes available via the internet.

## SECTION 3: CASE STUDY SELECTION

As stated earlier, one of the primary research objectives for this study was to document the incidence of convictions for driving while suspended and crash involvement among suspended/revoked drivers. As noted above, the purpose of the agency survey was to provide baseline information regarding current State practices related to driver monitoring, license suspension, and driver history data archive and retrieval practices. This baseline data, which was summarized in Section two, provided a foundation for selecting case study jurisdictions for detailed driver history data analysis in six representative jurisdictions.

### Screening Process

The universe of potential case study locations was limited to the 36 jurisdictions responding to the survey. Each jurisdiction responding to the survey was then ranked based on survey responses according to a set of five primary criteria. This ranking resulted in a short list of 11 jurisdictions for further consideration. Step two involved consultation with representatives from AAMVA and NHTSA and consideration of a variety of secondary factors. The primary screening criteria and secondary factors are described below.

#### Primary Screening Criteria

The following are the primary screening criteria used to rank potential case study jurisdictions:

1. **Suspend for a variety of driving and non-driving reasons**—Given that one of the study's research objectives is to examine the incidence of crash involvement among drivers suspended for different reasons (both driving and non-driving), the selected case study jurisdictions should suspend drivers for non-driving reasons. As noted earlier, all of the jurisdictions that responded to the survey reported suspending driving privileges for non-driving reasons (*Suspend for non-driving reasons = 1 point*)
2. **One-stop access to crash data**—The selected case study jurisdictions should record at least basic crash data as part of driver history data archives. Detailed crash data regarding at-fault crashes, type of crash, and severity of crash is preferred. Those jurisdictions that do not record at least basic crash data as part of driver histories should not be considered for this study. (*Basic data = 1 point, limited data = 2 points, detailed data = 3 points*)
3. **Period of time data is archived**—The selected case study jurisdictions should maintain driver history data for a minimum of five years. A period of 10 years is preferred. (*5-10 years = 1 point, More than 10 years = 2 points*)
4. **Reasonable opportunity for successful data retrieval**—The selected case study jurisdictions should provide a reasonable opportunity for success in terms of data access and retrieval. This should include considerations related to data request processes and estimated time for data retrieval. (**High**—*reasonable data request procedure and short turnaround time [two weeks or less] to fulfill data request = 3 points; Medium*—*reasonable data request procedure and turnaround time was less than 30 days or unspecified depending on request = 2 points; Low*—*somewhat difficult data request procedure and/or long turnaround time to fulfill data request = 1 point; Limited or no information provided regarding data request procedures = 0 points*)
5. **Data "index" available**—The selected case study jurisdictions should maintain a comprehensive data coding index that can be made available to the research team. (*1 point*)

## Secondary Considerations

The following secondary factors were considered prior to selecting the final list of case study jurisdictions.

- A. **Geographic diversity**—The selected case study jurisdictions should represent a diversity of geographic locations. Toward this end, at least one case study jurisdiction should be selected from each of AAMVA's four service regions.
- B. **Size diversity**—The selected case study jurisdictions should represent a range of jurisdictions in terms of size of licensed driver population.
- C. **Size of suspended driver population**—The selected case study jurisdictions should have a large enough pool of suspended drivers to support valid sample selection.

## Short List and Final Selection of Case Study Jurisdictions

Based on the data and information provided in response to the survey, 11 jurisdictions were selected for short listing (see Table 5). Each jurisdiction met most or all of the selection criteria described above. In addition, the 11 jurisdictions provided a diversity of geographic and size representation.

**Table 5: Short list of potential case study jurisdictions**

Region I	Region II	Region III	Region IV
New Jersey * (large)	Arkansas (medium)	Kansas (medium)	Colorado (medium)
New York (large)	Florida (large)	Michigan (large)	Oregon (medium)
Pennsylvania (large)	Tennessee (medium)	South Dakota (small)	

\* New Jersey did not formally respond to the survey and was therefore not included in the survey data analysis. However, New Jersey was included in the short list screening process. The information and data used for this purpose was provided by members of the research team familiar with New Jersey driver license policies and driver history data archive and retrieval practices.

Eleven **AAMVA Region I** jurisdictions responded to the agency survey. Of those, three scored eight or more points based on the criteria outlined above.

1. **New York** received a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. It is a large jurisdiction with approximately 10 million licensed drivers. Approximately four percent or 400,000 licensed drivers have their driving privileges suspended. In New York, driving behavior is monitored using a combination of both point- and occurrence-based monitoring. Driver history data includes data related to violations and suspensions as well as detailed crash involvement data, including: event date, property damage, personal injury, fatality indicator, and reference number for cross-checking data with other data sets. Driver history data was last purged 14 years ago in 1992. Data is maintained on an Oracle database system. The process for retrieving data varies but most often involves some level of programming. The timeframe for data delivery is dependent on the information that is being requested. New York maintains a comprehensive data coding "index."
2. **Pennsylvania** also received a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. Similar to New York, it is a large jurisdiction with approximately 8.4 million licensed drivers. Pennsylvania did not provide data regarding the number of suspended drivers when responding to this survey. However, previous research conducted by the research team indicates that in 2004, the State had approximately 600,000 suspended drivers. At the time, this represented approximately seven percent of all licensed drivers in the State. In Pennsylvania, driving behavior is monitored using a point-based system. Driver history data includes data related to violations and suspensions as well as limited crash involvement data, including: event date, accident severity, and reference number for cross-checking data with other data sets. Driver history data is maintained indefinitely using a mainframe IBM CICS database system. The process for retrieving data varies but most often involves some level of programming.

Data requests must be made in writing specifying the data elements required and a detailed explanation on how the data will be used. The timeframe for data retrieval and delivery depends on available PennDOT resources and the complexity of the request. Pennsylvania maintains a comprehensive data coding "index."

3. **New Jersey** is the third region 1 jurisdiction to receive a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. Similar to New York and Pennsylvania, New Jersey is a large jurisdiction. The State has approximately 6 million licensed drivers and approximately 300,000 suspended drivers at any given time. This represents about five percent of the licensed driver population. New Jersey monitors driving behavior using a point-based system. Driver history data includes data related to violations, suspensions, as well as, basic crash involvement data (event date and fatality indicator). Driver history data is maintained indefinitely using a mainframe Legacy database system. The process for retrieving data involves a multi-staged request and varying levels of programming depending on the complexity of the data requested. Data requests must be made in writing specifying the data elements required and a detailed explanation on how the data will be used. The request must first be made to the New Jersey MVC driver control unit which then forwards it to the State Office of Information Technology for programming and data retrieval. The timeframe for data retrieval and delivery depends on available resources, the complexity of the request and competing priorities. New Jersey maintains a comprehensive data coding "index." **Special Note:** The research team has extensive experience working with New Jersey MVC data and currently has a data request pending which should satisfy the needs of this study. If NJ is selected as a case study location, permission to use the data for this study must be obtained prior to using the data.

Eight **AAMVA Region II** jurisdictions responded to the agency survey. Of those, three scored eight or more points based on the criteria outlined above.

1. **Arkansas** received a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. It is a medium-size jurisdiction with approximately 2 million licensed drivers. Approximately four percent or 90,000 licensed drivers have their driving privileges suspended. In Arkansas, driving behavior is monitored using a point-based system. Driver history data includes data related to violations and suspensions as well as limited crash involvement data, including: event date, fatality indicator, and type of vehicle. Only at-fault crashes are recorded. Driver history data is maintained for 15 years on a mainframe IBM IMS database system. The process for retrieving data varies but most often involves some level of programming. The timeframe for data delivery is dependent on the information that is being requested. Arkansas maintains a comprehensive data coding "index."
2. **Florida** received a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. It is a large jurisdiction with approximately 10 million licensed drivers. According to data from previous studies, approximately 10 percent or 1 million licensed drivers have their driving privileges suspended. In Florida, driving behavior is monitored using an occurrence-based system. Driver history data includes data related to violations and suspensions as well as basic crash involvement data (event date, fatality indicator, and at-fault indicator). Driver history data is maintained for 10-75 years depending on the offense; and "warehoused" using IBM DB2 software on a local server network. The process for retrieving data varies but most often involves some level of programming. The timeframe for data delivery is dependent on the information requested and the size of the sample. According to the individual responding to the survey, most requests for data can be fulfilled in "a few days." Florida maintains a comprehensive data coding "index."
3. **Tennessee** received a total screening score of 10 out of 10 and did not meet any of the exclusion criteria. It is a medium-size jurisdiction with approximately 4.4 million licensed drivers. Approximately 14 percent or 600,000 licensed drivers have their driving privileges suspended. Tennessee uses a point-based system to monitor driving behavior. Driver history data includes data related to violations and suspensions as well as detailed crash involvement data, including: event date, type of crash, fatality indicator, bodily

injury indicator, property damage amount, at-fault, and type of vehicle. Driver history data is maintained for 10 years for most offenses and indefinitely for DUI and active suspensions and revocations. Data is stored on a mainframe IBM database system. Data must be requested in writing and the process for retrieving data varies but most often involves some level of programming. The timeframe for data delivery is dependent on the information requested, but most requests can be fulfilled within two to three days. Tennessee maintains a comprehensive data coding "index."

Ten **AAMVA Region III** jurisdictions responded to the agency survey. Of those, three scored eight or more points based on the criteria outlined above.

1. **Kansas** received a total screening score of 9 out of 10 and did not meet any of the exclusion criteria. It is a medium-size jurisdiction with approximately 2 million licensed drivers. Kansas did not provide data regarding the number of suspended drivers when responding to this survey. However, previous research conducted by the research team indicates that in 2004, the State had approximately 100,000 suspended drivers (Carnegie, 2007). At the time, this represented approximately five percent of all licensed drivers in the State. In Kansas, driving behavior is monitored using an occurrence-based system. Driver history data includes data related to violations and suspensions as well as limited crash involvement data, including: event date, crash severity, and type of vehicle. Driver history data is maintained for 10 years for most offenses and indefinitely for some. Data is archived using IBM DB2 software on a local server network. Special requests for data must be made in writing. The process for retrieving data varies but most often involves some level of programming. The timeframe for data delivery is dependent on the complexity of the information requested. Kansas maintains a comprehensive data coding "index."
2. **Michigan** received a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. It is a large jurisdiction with approximately 7.2 million licensed drivers. Michigan did not provide data regarding the number of suspended drivers when responding to this survey. Driver behavior in Michigan is monitored using a combination of both point- and occurrence-based monitoring. Driver history data includes data related to violations and suspensions as well as detailed crash involvement data, including: event date, number of vehicles involved, fatality indicator, bodily injury indicator, negligence code, alcohol/drug use indicator, and reference number for cross-checking data with other data sets. Driver history data is maintained for 7-10 years. Data is stored on a mainframe IBM DB2 database system. Data must be requested in writing, and the process for retrieving data varies but most often involves some level of programming. The timeframe for data delivery is dependent on the information requested, but most requests can be fulfilled within 7-10 days. Michigan maintains a comprehensive data coding "index."
3. **South Dakota** received a total screening score of 9 out of 10 and did not meet any of the exclusion criteria. It is a small jurisdiction with approximately 550,000 licensed drivers. Approximately 4 percent or 22,000 licensed drivers have their driving privileges suspended. South Dakota uses a point-based system to monitor driving behavior. Driver history data includes data related to violations and suspensions as well as limited crash involvement data, including: event date, vehicle type, crash number, and fatality indicator. Driver history data for standard license holders is maintained for 10 years. Data for CDL drivers is saved indefinitely. Data is maintained on an Oracle database system. The process for retrieving data varies but most often involves some level of programming. The timeframe for data delivery is dependent on the information that is being requested and programmer workload. South Dakota maintains a comprehensive data coding "index."

Eight **AAMVA Region VI** jurisdictions responded to the agency survey. Of those, two scored eight or more points based on the criteria outlined above. These included:

1. **Colorado** received a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. It is a medium-size jurisdiction with approximately 4.5 million licensed drivers. Approximately 9 percent or 400,000 licensed drivers have their driving privileges suspended. Colorado uses a point-based system

to monitor driving behavior. Driver history data includes data related to violations and suspensions as well as limited crash involvement data, including: event date, persons involved, and other unspecified "statistical" information. Driver history data is maintained indefinitely. Requests for data must be made in writing and most often involve some level of programming. The timeframe for data delivery is dependent on the complexity of the information requested and programmer workload. Most requests can be fulfilled within two weeks. Colorado maintains a comprehensive data coding "index."

2. **Oregon** received a total screening score of 8 out of 10 and did not meet any of the exclusion criteria. It is a medium-size jurisdiction with approximately 2.7 million licensed drivers. Approximately 11 percent or 300,000 licensed drivers have their driving privileges suspended. Oregon uses an occurrence-based system to monitor driving behavior. Driver history data includes data related to violations and suspensions as well as detailed crash involvement data, including: event date, type of accident, fatality involvement, employment indicator, and reference number for cross-checking data with other data sets. The length of time driver history data is maintained depends on the type of event and ranges from five years to indefinitely. Data is stored and access using Microsoft SQL database management software. Requests for data must be made in writing and most often involve some level of query programming. The timeframe for data delivery is dependent on the complexity of the information requested but most often requests can be fulfilled within two to three weeks. Oregon maintains a comprehensive data coding "index."

The final selection of case-study jurisdictions was made after consulting with representatives from AAMVA and NHTSA regarding the short list and a series of follow-up telephone interviews with the principal points of contact responsible for data retrieval requests within each agency. Based on these interviews, the short list was narrowed to six jurisdictions for subsequent data collection and analysis (see Table 6).

**Table 6: Final case study jurisdictions**

Region I	Region II	Region III	Region IV
New Jersey (large)	Florida (large) Tennessee (medium)	Kansas (medium) South Dakota (small)	Colorado (medium)

## SECTION 4: OVERVIEW OF CASE STUDY JURISDICTIONS

As noted in the previous section, the research team contacted each of the 11 short list jurisdictions via telephone to discuss data acquisition. Six jurisdictions agreed to provide data on both suspended/revoked drivers and currently licensed drivers. These were Colorado, Florida, Kansas, New Jersey, South Dakota, and Tennessee. This section presents a brief descriptive profile of each case study jurisdiction. The descriptions include an overview of selected highway statistics and information from the legislative review of license suspension laws in each State. Table 7 provides a summary of selected highway statistics for the six case study jurisdictions included in the final data analysis. Table 8 provides a quick-reference overview of suspension reasons by jurisdiction.

**Table 7: Selected highway statistics—Case study jurisdictions**

State	Licensed Drivers (thousands)	Registered Vehicles (thousands)	Vehicle Miles Traveled (millions)	Population (thousands)	Traffic Fatalities	Fatality Rate per 100,000 Population
Colorado	3,341	1,808	47,962	4,665	606	13.0
Florida	13,374	15,691	201,531	17,790	3,543	19.9
Kansas	1,974	2,368	29,621	2,745	428	15.6
New Jersey	5,871	6,262	73,819	8,718	748	8.6
South Dakota	566	854	8,397	776	186	24.0
Tennessee	4,352	4,980	70,814	5,963	1,270	21.3

Sources: U.S. Department of Transportation, National Highway Traffic Safety Administration, Traffic Safety Facts 2005 Early Edition, Washington, DC: 2006, available at <http://www.nrd.nhtsa.dot.gov/Pubs/TSF2005EE.PDF> as of December 5, 2006; U.S. Department of Transportation, Federal Highway Administration, Highway Statistics 2005, Washington, DC: 2006; U.S. Department of Commerce, U.S. Census Bureau, Statistical Abstract of the United States 2006 Washington, DC: 2006, available at <http://www.census.gov/compendia/statab/> as of December 26, 2006.

### *Colorado*

Colorado has approximately 4.7 million residents and 3.3 million licensed drivers. There are approximately 1.8 million registered vehicles in the State. Colorado drivers log approximately 48 billion vehicle miles per year. In 2005, there were 606 fatal crashes on Colorado roadways. This equates to a per capita fatality rate of 13.0 per 100,000 residents. Colorado uses a point-based system to monitor driver behavior. Licensed drivers may have their driving privileges withdrawn for both driving and non-driving reasons (see Table 8). According to motor vehicle agency representatives, at any given time, approximately nine percent of the State's licensed drivers may have their driving privileges suspended/revoked. In addition, it should be noted that the State of Colorado has a conditional job-related probationary license program that allows eligible drivers to drive for employment, medical, and essential needs purposes during the period of their suspension/revocation (Carnegie, 2007).

**Table 8: Reasons for driver's license suspension/revocation in the case study jurisdictions**

	CO	FL	KS	NJ*	SD	TN
<b>DRIVING-RELATED REASONS FOR SUSPENSION</b>						
Driving while intoxicated or under the influence of drugs	■	■	■	■	■	■
Driving while suspended or revoked	■	■	■	■	■	■
Reckless driving			■	■		■
Careless driving				■		
Leaving the scene of an accident	■	■	■	■	■	■
Accumulation of points or "countable" violations/crashes	■	■	■	■	■	■
<b>NON-DRIVING REASONS FOR SUSPENSION</b>						
Failure to appear in court to satisfy a moving violation	■	■	■	■	■	■
Failure to appear in court to satisfy a parking ticket		■		■		
Failure to pay a motor vehicle fine, surcharge or fee		■	■	■		■
Failure to pay court fines, fees or surcharges		■	■	■	■	■
Failure to comply with a child support order	■	■	■	■		■
Conviction for a drug-related offense other than DUI	■	■	■	■		■
Failure to maintain proper insurance	■	■	■	■	■	■
Altered or unlawful use of a driver's license	■	■		■	■	■
Fictitious license plates, registration, inspection sticker, etc.		■		■		
Fraudulent application for driver's license or registration	■	■	■	■	■	■
Alcohol- and drug-related offenses (other than DUI) by minors	■	■	■	■	■	■
Truancy		■				■
Delinquent conduct by a minor	■	■	■	■		■

Notes: The data presented in this table was primarily derived from a 2005 survey of motor vehicle agencies (31 responses were received). The survey data was supplemented with a review of online material. Information for those States marked with an \* was compiled from motor vehicle licensing documents and statutes available via the Internet. The reasons listed in the table may not be exhaustive.

### Florida

Florida has 17.8 million residents, 13.3 million licensed drivers, and approximately 15.7 million registered vehicles. It is the largest jurisdiction investigated for this study. Florida drivers log more than 201 billion vehicle miles per year. In 2005, there were 3,543 fatal crashes on Florida roadways. This equates to a per capita fatality rate of 19.9 per 100,000 residents. Driving behavior in Florida is monitored using an occurrence-based system. Florida drivers may have their driving privileges withdrawn for both driving and non-driving reasons (see Table 8). No data on the number of suspended drivers in Florida was made available for this study; however, according to data from previous studies, approximately 10 percent or 1-1.3 million licensed drivers have their driving privileges suspended at any given time in the State.

### Kansas

Kansas has approximately 2.7 million residents and 1.9 million licensed drivers. There are approximately 2.4 million registered vehicles in the State. Kansas drivers log approximately 29.6 billion vehicle miles per year. In 2005, there were 428 fatal crashes on Kansas roadways. This equates to a per capita fatality rate of 15.6 per 100,000 residents. Like Florida, Kansas uses an occurrence-based system to monitor driver behavior. Kansas drivers may have their driving privileges withdrawn for both driving and non-driving reasons (see Table 8). According to State motor vehicle agency representatives, any given time, approximately 5 percent of the State's licensed drivers may have their driving privileges suspended/revoked. Further, it should be noted that the State of Kansas has restricted-use license program that allows eligible drivers to drive for employ-

ment, education, drug treatment and medical purposes during the period of their suspension/revocation (Carnegie, 2007).

### *New Jersey*

New Jersey has 8.7 million residents, 5.9 million licensed drivers, and approximately 6.3 million registered vehicles. New Jersey drivers log more than 73.8 billion vehicle miles per year. With 748 fatal crashes in 2005, New Jersey has the lowest per capita fatality rate (8.6 per 100,000 residents) of the six case-study jurisdictions investigated for this study. Driving behavior in New Jersey is monitored using a point-based system. As is true in all six case study jurisdictions, New Jersey drivers may have their driving privileges withdrawn for both driving and non-driving reasons (see Table 8). At any given time, approximately five percent of the State's licensed drivers may have their driving privileges suspended (Carnegie, 2007).

### *South Dakota*

South Dakota is the smallest jurisdiction investigated for this study. The State has only about 776,000 residents and 566,000 licensed drivers. There are approximately 854,000 registered vehicles in the State. South Dakota drivers log approximately 8.4 billion vehicle miles per year. In 2005, there were only 128 fatal crashes in the State. However, given its population South Dakota has the highest per capita fatality rate (24.0 per 100,000 residents) of the six jurisdictions included in this study. Like Colorado and New Jersey, South Dakota uses a point-based system to monitor driver behavior. In South Dakota, drivers may have their driving privileges withdrawn for both driving and non-driving reasons (see Table 8). According to motor vehicle agency representatives, at any given time, approximately four percent of the State's licensed drivers may have their driving privileges suspended.

### *Tennessee*

Tennessee has approximately 5.9 million residents, 4.4 million licensed drivers, and approximately 4.9 million registered vehicles. Drivers in Tennessee log more than 70.8 billion vehicle miles per year. In 2005, there were 1,270 fatal crashes in the State. This equates to a per capita fatality rate of 21.3 per 100,000 residents. Driving behavior in Tennessee is monitored using a point-based system. The State's drivers may have their driving privileges withdrawn for both driving and non-driving reasons (see Table 8). According to motor vehicle agency representatives, at any given time, rates of license suspension in Tennessee range from 6-14 percent of the State's licensed driver population. It should also be noted that the State of Tennessee has a restricted use license program that allows eligible drivers to drive for employment, education, drug treatment, and medical purposes during the period of their suspension/revocation (Carnegie, 2007).

## **SECTION 5: DATA ANALYSIS AND FINDINGS**

In this section we describe the results of our data analysis which included several areas of inquiry. After describing data acquisition, sample frame, and analysis methods we examine aggregate trends in suspension activity by comparing two groups of suspended drivers, those whose suspension is due to driving reasons and those suspended for non-driving reasons.

### **Data Acquisition, Sample Frame, Methods**

Each of the six States participating in this study provided data covering the five-year time period of 2002-2006. The suspended/revoked driver data provided by each jurisdiction included the following driver history information: unique driver identification number (not driver's license number), reason for suspension, and violation history from time of suspension forward. Violation history data prior to suspension was not provided. Crash data were limited to the period of 2002-2006 for those States whose technology could link driver license data and crash data. It is important to note that many jurisdictions only record data for at-fault crashes. As a result, crash data in this context is difficult to analyze and its uses are limited in terms of statistical inference.

#### *Sampling Frame*

After obtaining the data from each participating jurisdiction, the research team created a merged dataset by sampling randomly 20,000 driver records from the universe of suspended/revoked drivers in the data from each State. The random sample was obtained using the driver's license number or other record identifier field provided by the jurisdiction as a unique identifier. No other metric, such as demographic or socioeconomic, was used to select the random sample. Care was taken to assure that driver's identification numbers were randomly assigned. This resulted in a dataset containing 120,000 suspended/revoked driver's records.

Not all of the 120,000 sampled records were useable due to errors in the drivers' license number or unique identifier field. Distribution of the unusable data was consistent across all States except New Jersey which had in excess of one-third of the errors. The final dataset included 85,100 unique suspended/revoked driver's records including drivers from all six States. Of these 85,100 records, 6,977 indicated a suspension or revocation without identification of the reason for the suspension/revocation. As a result, only 78,123 unique suspended/revoked driver's records could be categorized by reason for suspension/revocation. This subset of records was used in the detailed analysis.

#### *Methods*

Given that our data universe consists of only suspended/revoked drivers' records for the six States, we recode the records to create two subgroups—drivers suspended for driving reasons and drivers suspended for non-driving reasons. The recoding was based on the research team's review of suspension reasons in each of the six jurisdictions and interpretation of the suspensions recorded for each driver. Although specific non-driving reasons for suspension differ by State, the metric of non-driving reasons for suspension remains consistent across all six jurisdictions. The criterion used to categorize drivers suspended for driving related suspension included all reasons related to negligent operation of a motor vehicle. For the purpose of this study, negligent operation of a motor vehicle includes drivers whose suspension was ordered as a result of failing to appear in court or pay a fine on a traffic violation. It should be noted it is possible that drivers suspended for failing to appear/pay fine (arguably a compliance violation) are not "poor" drivers per se in the same manner as a persistent or habitual violator might be. However, because the suspension stemmed from

an earlier driving violation, it is considered for the purpose of this study to be a driving-related suspension. All driving and non-driving reasons in the database are shown in Appendix A.

### Aggregate Trends in Suspension Activity

Table 9 shows the total number of suspended drivers by year in the sample population and the proportion of total suspended drivers by suspension type. As shown in the table, the total number of suspended drivers decreases over the analysis period from approximately 19,000 in 2002 to approximately 14,000 from 2004-2006. This represents a 26-percent decrease over the time period. A concurrent result of the downward trend in suspensions over the analysis period is the increasing proportion of drivers suspended for non-driving reasons in the population of all suspended drivers over the time period. In 2002, drivers suspended for non-driving reasons represented over one quarter (27%) of all suspended drivers. In 2005 and 2006, they represented in excess of one-third (36%) of all suspended drivers.

**Table 9: Driving versus non-driving suspensions—2002–2006**

Year	Total Suspended Driver Records in Sample	Suspended for Non-Driving Reasons		Suspended for Driving Reasons	
		Number	% of total	Number	% of total
2002	18,984	5,054	27%	13,930	73%
2003	17,272	4,849	28%	12,423	72%
2004	14,021	4,295	31%	9,726	69%
2005	13,709	4,910	36%	8,799	64%
2006	14,137	5,140	36%	8,997	64%
Total	78,123	24,248	31%	53,875	69%

### Violation Recidivism, Survival Analysis, and Crash Involvement

In the following analyses, we define a recorded event within the database as a crash, moving violation, conviction for driving while suspended, or non-driving offense such as failure to pay a court-ordered financial obligation, failure to pay child support, and failure to maintain continuous liability insurance. After grouping the events, we examined the driving records of suspended drivers over the period of analysis to document how frequently any of the four types of events occurred on each suspended driver's record. Our database consists of 53,875 drivers suspended for driving reasons of which about 42 percent (22,424) are subsequently convicted of a violation while their driving privileges are suspended. Of the 24,248 drivers suspended for non-driving reasons, about 38 percent (9,288) are subsequently convicted of a violation while their driving privileges are suspended. As shown in Table 10, the total number of events entered on suspended driver records is relatively consistent when comparing drivers suspended for non-driving versus driving reasons. On average, over the five-year time period, drivers suspended for non-driving reasons logged 2.6 events, while drivers suspended for driving reasons logged 2.7 events.

**Table 10: Average number of times suspended drivers observed during the period of suspension (2002–2006)**

Type of suspended driver	Average times observed in database
Suspended for non-driving reason (N=24,248)	2.6
Suspended for driving reason (N=53,875)	2.7

Looking at days until an event occurs; Table 11 shows the mean and median number of days until an event is recorded in the database. Drivers suspended for driving reasons receive a moving violation within 8 months (254 days) compared to 11 months (340 days) for drivers suspended for non-driving reasons. Both groups were in a subsequent crash within 10 months (308 days for those suspended for driving reasons versus 9.4 months or 287 days for drivers suspended for non-driving reasons). Drivers who were suspended for

non-driving reasons were subsequently convicted of driving while suspended within 11.7 months (355 days) compared to 14.4 months for drivers suspended for driving reasons. The two groups differ when considering the number of days until they received a moving violation, a subsequent non-driving offense, or a subsequent driving while suspended violation. The two groups did not differ in the time to involvement in a subsequent crash.

**Table 11: Days to event occurrence among drivers suspended for non-driving versus driving reasons (2002–2006)**

Type of Event	Drivers Suspended for Non-Driving Reasons			Drivers Suspended for Driving Reasons		
	Mean	Median	95% Confidence Interval	Mean	Median	95% Confidence Interval
Crash	287	187	(241, 333)	308	215	(293, 323)
Moving Violation	340	214	(328, 351)	254	128	(249, 259)
Non-Driving Offense	270	160	(262, 279)	404	319	(394, 415)
Driving While Suspended	355	258	(330, 380)	436	348	(420, 452)

### Violation Recidivism

This section examines violation recidivism among drivers suspended for non-driving reasons versus those suspended for driving reasons. Table 12 shows both the number of events and the percentage of events occurring after the initial drivers' suspension during the period of study. As shown in the table, moving violations are committed by 29.4 percent of drivers suspended for driving reasons after their initial suspension while 14.9 percent of those suspended for non-driving reasons commit a moving violation after their initial suspension. Looking at non-driving offenses, we see that 20.7 percent of drivers suspended for non-driving reasons commit a subsequent non-driving offense compared to 8.8 percent of those suspended for driving reasons. When considering driving on a suspended license, 3.4 percent of drivers suspended for driving reasons are convicted of this offense while 2.7 percent of drivers suspended for non-driving reasons are convicted of this offense.

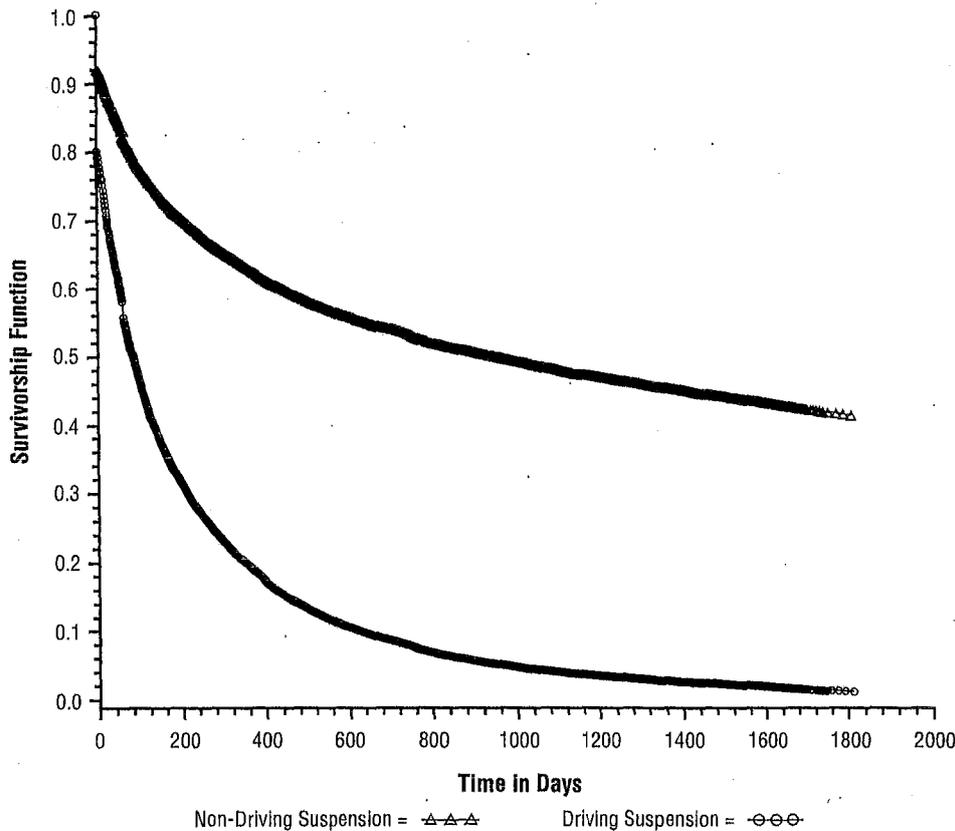
**Table 12: Drivers subsequently convicted of an event during their suspension period (2002–2006)**

Type of Event	Drivers suspended for non-driving reasons (N=24,288)		Drivers suspended for driving reasons (N=53,875)	
	Number of Events	Percentage	Number of Events	Percentage
Moving Violation	3,613	14.9	15,850	29.4
Non-Driving Offense	5,028	20.7	4,741	8.8
Driving While Suspended	656	2.7	1,832	3.4

### Survival Analysis

We further explore the violation recidivism between the two groups, drivers suspended for driving reasons versus drivers suspended for non-driving reasons, through survival analysis. Figure 1 shows the survival analysis function graphically. In the graph, the vertical axis represents the survivorship function. The survivorship function shows that the group suspended for non-driving reasons consistently lies above the group suspended for driving reasons. This indicates that the recidivism rate for drivers suspended for non-driving reasons is lower through the time period than the rate for drivers suspended for driving reasons. This finding remains true when controlling for the number of individuals in each group who never reoffend during the analysis period. Statistically, this controls for the censoring of those who never reoffend in the time period under analysis.

**Figure 1: Survival graph for recidivism of all types of violations and crashes**



In Table 13, we offer the statistical hazard outcomes for the survival analysis. We test for the proportional hazard assumption finding that the non-statistically significant result  $-\chi^2 = .8883$   $Pr \chi^2 = .3459$  – leads to the conclusion that there is no evidence of an increasing or decreasing trend over time in the hazard ratio. The variables used in the analysis are nominal variables. The first variable, driving reason, is coded 1 if the driver's suspension is for driving reasons. The variable labeled recidivism is coded 1 if the suspended driver commits a moving violation while suspended, and the final variable is the interaction between driving reason and violation recidivism which takes on the value of 1 if the driver is suspended for driving reasons and has committed a moving violation while suspended. The hazard ratio on the interaction is 2.79 meaning that the hazard for recidivism for those drivers who are suspended for driving reasons and commit an additional driving-related offense is 2.79 times greater than for those who are suspended for non-driving reasons or those who are suspended for driving reasons but do not reoffend.

**Table 13: Hazard function for the analyzed period of suspension (2002-2006)**

Variable	Parameter Estimate	Standard Error	$\chi^2$	$Pr > \chi^2$	Hazard Ratio
Driving Reason	-0.814	0.019	1906.47	<.0001	0.443
Violation Recidivism	1.576	0.021	5806.66	<.0001	4.834
Driving Reason* Recidivism	1.026	0.026	1612.34	<.0001	2.791

*Crash Involvement*

In addition to violation recidivism and time until the reoffending event, we examined crash involvement among suspended drivers to determine if patterns of crash involvement differed between drivers suspended for driving versus non-driving reasons. Table 14 shows that about 0.09% of drivers suspended for a non-driving reason are involved in a crash while 3.4% of drivers suspended for driving-related reasons are involved in a crash. If we focus on only those who have been involved in any of the events after suspension of their driver's license, we find that about 1.9% of drivers suspended for a non-driving reason are involved in a crash while 6.8% of drivers suspended for driving-related reasons are involved in a crash.

**Table 14: Suspended drivers involved in a crash during the period of suspension (2002-2006)**

Type of Suspended Driver	Repeat Offenders			All Suspended Drivers		
	N	Number of Events	Percentage	N	Number of Events	Percentage
Suspended for Non-Driving Reason	9,288	176	1.9	24,248	218	0.09
Suspended for Driving Reason	22,424	1,525	6.8	53,875	1,835	3.4

## **SECTION 6: DISCUSSION, CONCLUSIONS, AND RECOMMENDATIONS**

There is a commonly held belief among motor vehicle administrators, law enforcement, and the courts that suspended drivers pose a significant traffic safety risk when they continue to drive. As such, driving while suspended is treated as a very serious offense in most jurisdictions. This belief stems largely from a time when there was a direct relationship between license suspension and driving behavior. The reality today is that license suspension is widely used as a sanction for things other than habitual bad driving. In fact, several studies have found that suspensions for non-driving reasons are far more common than suspensions ordered to punish habitual bad driving (Carnegie, 2007).

According to a survey of State motor vehicle agencies and a review of State statutes conducted for this study, all 50 States and the District of Columbia have laws that permit the State motor vehicle agency and/or the courts to withdraw driving privileges for at least some non-driving reasons. Common non-driving reasons for suspension include: failure to comply with a child support order; failure to maintain proper insurance; failure to appear in court to satisfy a summons; fraudulent application for driver's license or vehicle registration documents; altered or unlawful use of a driver's license; alcohol and drug-related offenses by minors other than DUI; convictions for drug-related offenses other than DUI; and failure to pay a motor vehicle and/or court fines, fees, and surcharges. Other less common non-driving reasons for suspension include: truancy; fuel theft; delinquent conduct by a minor; use of fictitious license plates, registration, or inspection sticker; failure to appear in court to satisfy a parking ticket; making terrorist threats; graffiti; failure to register as a sex offender; and attempting to purchase tobacco by a minor.

Our analysis of suspended driver data from six jurisdictions shows that about 38 percent of drivers suspended for non-driving reasons and about 42 percent of drivers suspended for driving reasons are subsequently convicted of a violation while their driving privileges are suspended. Our data shows an overall decrease of 26 percent in the total number of suspended drivers over the analysis period, with most the decline occurring among drivers who were suspended for a driving reason. While approximately the same number of drivers was suspended for non-driving reasons, they account for a larger proportion, increasing from 27 percent of all suspended drivers in 2002 to 36 percent of all suspended drivers by 2005.

This finding is important because our data analysis shows that the pattern of violation and crash involvement among drivers suspended for driving versus non-driving reasons vary in significant ways:

- **Approximately 30 percent of drivers suspended for driving reasons commit a moving violation while under suspension compared to approximately 15 percent of drivers suspended for non-driving reasons.**
- **Approximately 3.4 percent of drivers suspended for driving reasons are convicted of driving while suspended compared to 2.7 percent of drivers suspended for non-driving reasons.**
- **Less than one percent (0.09%) of drivers suspended for non-driving reasons are involved in a crash while their driver's license is suspended. This compares to over three percent (3.4%) of drivers suspended for driving reasons are involved in a crash while their driver's license is suspended.**

These findings are in many ways intuitive and prove the obvious—drivers suspended for bad driving are indeed bad drivers. However, together, the findings also point to the conclusion that the suspended driver population is heterogeneous in behavior while suspended, leading to the conclusion that safety efforts to

combat the problem of driving while suspended should take into account the differences between the two suspended driving groups.

From a policy prospective, the findings appear to support the conclusion that not all suspended drivers behave the same and therefore can and perhaps should be treated differently by motor vehicle agencies, law enforcement, and the courts. This is not to say that suspensions of drivers for non-driving reasons is unfounded. On the contrary, we make no statement about the use of suspensions regardless of the reasons. What we find is that when comparing the two groups, those who are suspended for driving reasons versus those suspended for non-driving reasons, our findings suggest that these two groups are not homogeneous in behavior and therefore may need differing policy actions. This presents a dilemma for policymakers in the context of current driver control and management systems and a multitude of Federal and State laws already in place.

License suspension was originally intended as a sanction to address poor driving behavior; however, it is now (almost universally) used as a means to punish individuals engaged in criminal and/or otherwise socially undesirable behavior unrelated to driving and as a means to compel compliance with administrative requirements such as appearing in court and paying fines, fees, and surcharges, and insurance requirements. Given the significant administrative burden (both court and law enforcement) associated with processing drivers found to be driving while suspended and the fact that drivers suspended for non-driving reasons appear to pose a comparatively lower safety risk (i.e., fewer violations and crashes while suspended) compared to those who are suspended based on driving reasons, the findings may provide a foundation for reconsidering how motor vehicle agencies, law enforcement and the courts deal with license suspension for non-driving reasons.

An option might be to consider a new licensure status that differentiates between drivers suspended for bad driving and those suspended for financial or compliance reasons. In fact, in many jurisdictions there is already a dual status system in place for withdrawing driving privileges. The existing distinction is between license suspension and revocation. Suspensions most often represent a temporary withdrawal while revocations are a more severe and sometimes permanent sanction.

Additionally, an option might be to stop the practice of suspending licenses for things unrelated to driving. This would certainly reestablish the link between the sanction and driving behavior. Unfortunately, we do not know the relationship in our study between suspended for non-driving reasons and the average driver (not suspended). This is a limitation of the study, however we note that previous studies indicate that those suspended for non-driving reasons may not differ significantly from the average driver (Gebers and DeYoung). We would argue that much more research needs to be done before drawing any major conclusions about the relationship between those suspended for non-driving reasons and the average driver.

As a potential policy, for example, a status of "restricted" could be added to suspended and revoked for drivers whose suspension/revocation is due to non-driving reasons. Under restricted status, a driver could be limited to driving for work, workforce training and medical purposes, similar to the restricted use, occupational or work license programs in place in many States. The withdrawal of some driving privileges would likely retain much of the deterrent or coercive effect that the threat of license suspension currently provides. At the same time it may limit the economic impact of license suspension on those unable to pay fines (e.g., working poor) and indigent individuals by allowing drivers to continue to drive to work. Such a status would eliminate the need for drivers to apply for such a license and relieve motor vehicle agencies of the administrative burden of processing restricted-use license requests in the jurisdictions that have them. Finally, such a status may reduce the financial and administrative burden to law enforcement and the courts of processing drivers found to be driving while suspended for non-driving reasons, allowing law enforcement and the

courts to concentrate limited resources on more dangerous suspended drivers—those drivers found to be driving while suspended for driving reasons.

The analysis conducted for this study provides a baseline for further discussion by the AAMVA suspended/revoked driver working group. The research results point to differences between the two groups when considering driving behavior. Overall, the analysis provides information to administrators and safety experts indicating the two groups of suspended drivers differ on multiple dimensions. A question that remains unanswered is whether or not the two groups differ in risk-taking and driving ability. We have shed some light on the fact that violation recidivism and crash involvement vary between the groups and that driving violations after suspension are more pronounced for those suspended for driving reasons. Drivers whose licenses are suspended for driving reasons are more likely to be convicted of a subsequent driving violation, while those suspended for non-driving reasons are more likely to be convicted of a subsequent non-driving violation. More research is needed before drawing definitive conclusions.

For example, the crash data used in this analysis was limited in most instances to drivers found to be at-fault. What is not known is the influence of suspended drivers contributing to a crash when not found at fault. It could be argued that the suspended driver has some fault in the crash since the driver was not allowed to legally drive. An analysis that differentiates the number of crashes in which the two groups were involved may lead to a better metric for measuring this driving behavior. Also, the analysis was limited to sample data from six jurisdictions. This is an improvement over studies that have focused on data from a single jurisdiction but questions of representativeness remain. Finally these data do not allow a comparison of the violation or crash experiences of suspended drivers for whatever reason to the general population of drivers. What can be said from this analysis is that the findings appear to be robust across the jurisdictions sampled.

## SELECTED REFERENCES

- Carnegie, J.A. (2007). *Driver's License Suspensions, Impacts and Fairness Study*. New Jersey: New Jersey Department of Transportation.
- Eby, D.W., et al. (2002). *An Evaluation of Michigan's Repeat Alcohol Offender Laws: Executive Summary*. Michigan: The University of Michigan Transportation Research Institute.
- Gebers, M.A., and DeYoung, D.J. (2002). *An Examination of the Characteristics and Traffic Risk of Drivers Suspended/Revoked for Different Reasons*. California: California Department of Motor Vehicles.
- Griffin, L.I., and DeLaZerda, S. (2000). *Unlicensed to Kill*. Washington, DC: AAA Foundation for Traffic Safety.
- Joerger, M. (2002). *Profile of Driver Problems Follow-up Evaluation: An Examination of Driver Demographic Information and Driving Record*. Oregon: Oregon Department of Transportation.
- McCartt, A.T., Geary, L.L., and Nissen, W.J. (2002). *Observational Study of the Extent of Driving While Suspended for Alcohol-Impaired Driving*. Washington, DC: National Highway Traffic Safety Administration. Accessed online at: [http://www.nhtsa.dot.gov/people/injury/research/observation\\_study/index.htm](http://www.nhtsa.dot.gov/people/injury/research/observation_study/index.htm)

## **APPENDIX: REASONS FOR SUSPENSIONS IN CASE STUDY STATES**

### **Driving Reasons**

Accident  
Allowing an Intoxicated Person to Drive  
Careless Driving In Commercial Vehicle  
Chemical Test Failure For Alcohol—Administrative  
Circumventing/Tampering With Ignition Interrupter  
Consuming Alcohol Beverage in a Motor Vehicle  
Contest Racing on Public Trafficway  
Contributing to Accident Involving Property Damage  
Contributing to Accident Resulting in Bodily Injury  
Conviction for Failure to Provide Evidence  
Conviction Under Implied Consent Law  
Display/Represent Driver's License Not Ones Own  
Drive on Wrong Side of Road  
Drive w/Unlawful Blood Alcohol Level (.08 g/dL or Above)  
Drive w/Unlawful Blood Alcohol Level .02 (Under 21)  
Driving After Convicted as Habitual Offender  
Driving on Sidewalk  
Driving Under Influence of Narcotics  
Driving While Revoked  
Driving While Suspended  
DUI—Manslaughter  
DUI—Property Damage/Personal Injury  
DUI—Serious Bodily Injury  
Eluding Police Officer  
Evading Arrest  
Exceeding Speed Limitations  
Exhibition Driving  
Fail to Stop, Rend Aid Injury/Death  
Failure to Appear in Court—Out of State  
Failure to Pay Fine After Conviction of Moving Violation  
Failure to Report Accident  
Felony by a Motor Vehicle  
Heedless, Willful, Wanton, or Reckless Driving

### **Non-Driving Reasons**

Court Installment Order  
Court Ordered—Countermeasure Program  
Court Ordered Due to a Judgment  
Criminal Mischief  
Deface Public/Private Property  
Failure to Appear—Non-driving  
Failure to Appear—Worthless Check  
Failure to Complete Required Alcohol Program  
Failure to Maintain Insurance  
Failure to Pass Required Driver's Examination  
Failure to Pay Court Financial Obligation  
Failure to Pay Fine  
Failure to Report to Required Driver's License Exam  
Failure to Satisfy Non-Moving Violation  
Failure to Submit Required Medical/Vision Report  
Felony Possession/Trafficking of a Controlled Substance  
Immoral Act Involving Motor Vehicle  
Improper Use of DL or ID Card  
Inadequate Vision  
Juvenile Alcohol Offense—Minor  
Juvenile Court Action  
Juvenile Non-Compliance—School Attendance  
Juvenile-Restricted Permit  
Juvenile-Truancy  
Littering  
Medical-Unknown  
Non-Felony Drug Possession/Use  
Nonpayment of Child Support  
Obtaining Driver's License by Fraud  
Outstanding Judgment-Unpaid Referee  
Parking Offenses  
Petty Theft of Gasoline  
Possession of Alcohol  
Possession of Alcohol-Non-Driver

## **Driving Reasons**

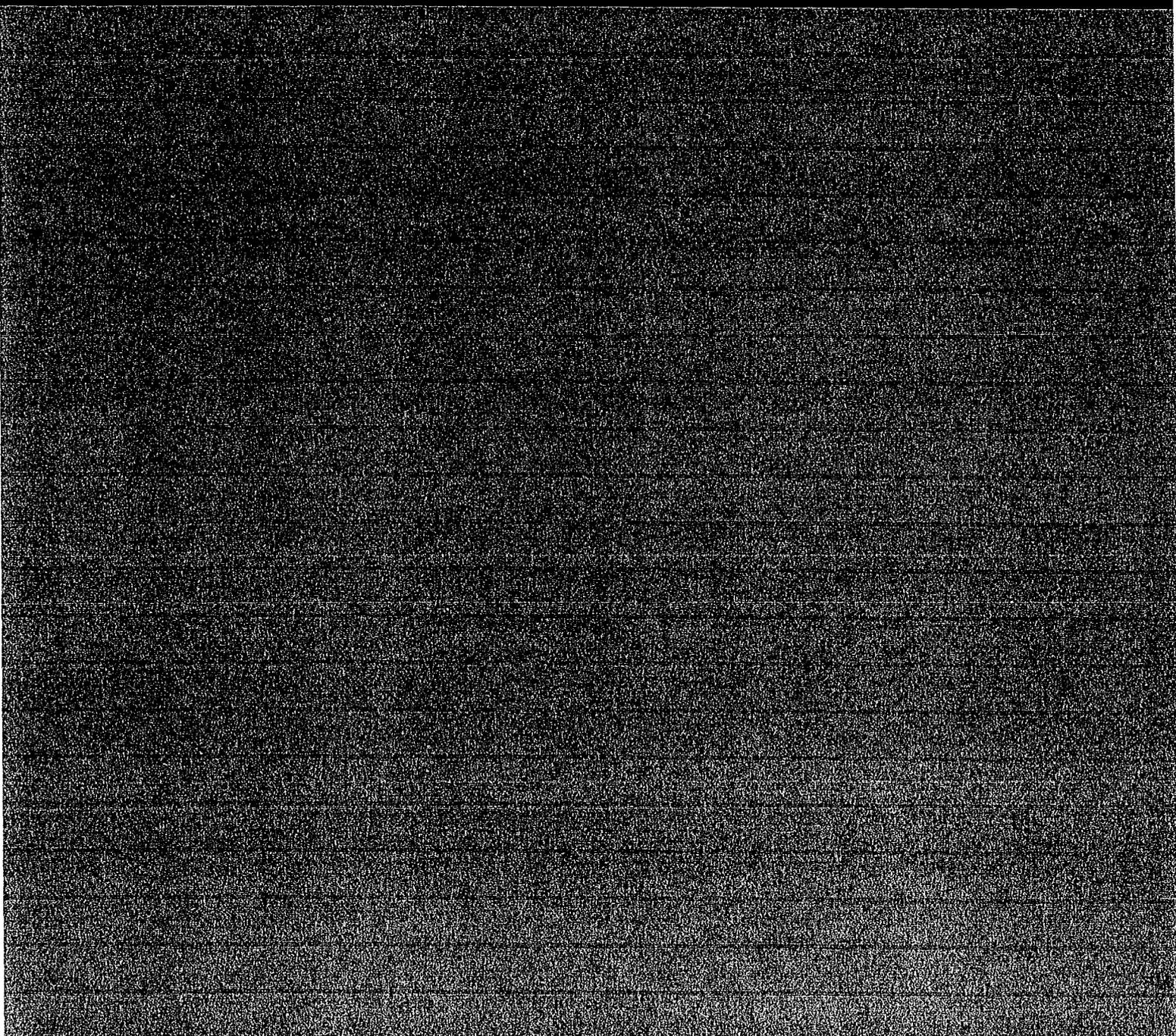
Hit/Run—Leaving Scene of Injury or Fatal  
Illegal Transportation of Alcohol or Drugs  
Injury Accident—Fault Not Determined  
Involved In—Fatal Accident  
Involved In—Injury Accident  
Involved In—Property Damage Accident  
Juvenile Court Suspension—Driving  
Leaving the Scene of Accident  
Load Dropping/Shifting/Escaping  
No Driver's License  
Operating Contrary to Conditions Specified  
Passing Stopped School Bus  
Possession of Weapon—Juvenile Court  
Racing on Public Trafficway  
Refuse Submit Breath Test (Under 21)  
Refuse Submit Breath/Urine/Blood Test  
Required Ignition Interlock  
Speeding 15 Mph or More Over Limit  
Suspension for Driving Off Without Paying  
Unlicensed Driver  
Unsafe Operation of a Motor Vehicle  
Using Hand Held Cell While Driving  
Using Motor Vehicle in Connection with Crime  
Vandalism in Vehicle  
Vehicular Assault—Felony  
Vehicular Homicide  
Violate Safety Zone  
Violation of Restriction  
Wrong Way on One-Way Street

## **Non-Driving Reasons**

Sell/Provide Alcohol to Minor  
Subject to Seizures  
Theft  
Theft of Motor Vehicle Parts  
VISA Expiration







U.S. Department  
of Transportation  
**National Highway  
Traffic Safety  
Administration**

